LIABILITY COVERAGE FOR COUNTY OFFICIALS

LIABILITY ISSUES
- Torts and immunities
- Federal claims
- Types of claims
- Insurance coverage
IDAHO TORT CLAIMS ACT
IDAHO CODE §§ 6-901 ET SEQ.

- Applies only to TORT actions.
- Does NOT apply to
  - Contract actions
  - Statutorily created claims.
  - Equitable actions.
  - Federal claims.

4 TOPICS OF THE ACT

- When is the government liable?
- Exceptions to liability.
- Procedural guidelines.
- Insurance – you can buy more liability.
TORT CLAIMS

- Must be in writing!
- Must be served on Clerk or Secretary of Governing Board (mailed or hand delivered)
- Filing of a complaint (lawsuit) is NOT notice.
- Tort claim is a precursor to a lawsuit

TIME LINES

180 Days— Tort Claim filing or be forever barred.

90 Days— If it doesn’t respond within 90 days to approve or deny, claim is deemed DENIED.

2 Years— Statute of limitations to file complaints in most actions.
WHAT DOES A CLAIM LOOK LIKE?

1. Hand or typewritten claim tort claim;
2. Lawsuit (complaint & summons);
3. Idaho Human Rights Commission Complaint;
4. EEOC Complaint;
5. If in doubt, send it to us!

Governmental Entity is Liable for the Acts of Its Employees, as long as:

- Acting within the course and scope of their employment. I.C. § 6-903(a).
- Entity has a duty to defend and indemnify.

If employee acted with malice or criminal intent, governmental entity may not be liable.
FEDERAL LIABILITY

- Primarily Civil rights issues
  - Employment
  - Discrimination
  - Due process for takings
  - Can be Federal environmental laws
  - Law enforcement claims such as excessive force

- Not always worse to be in Federal Court
- May be served on individual employee!!!

COMMON PUBLIC ENTITY CLAIMS

- Auto
- E&O
- General Liability
- Police Liability
- Property
ICRMP POLICY

PROVIDES COVERAGE FOR LOSSES
IN TWO AREAS:

1\textsuperscript{st} Party—Property

3\textsuperscript{rd} Party—Auto Liability, General Liability, Errors/Omissions, Chemical Spray, may be either state or federal.

FIRST-PARTY PROPERTY LOSSES:

• Property Belonging to the Insured:
  (must be listed on your policy by your agent.)
  • Autos—motorized, licensed & for use on roadways.
  • Buildings.
  • Mobile Equipment (road graders, snow mobiles, trailers, etc.)—not licensed for use on roadways.
Other Covered Property Losses:
- Crime
  - Embezzlement
  - Public official bonds
- Boiler & Machinery
- Cyber

THIRD-PARTY LOSSES:
- LIABILITY CLAIMS:
  - Property Damage to others
  - Personal Injury to others
  - Police Liability
  - No-Fault Medical Payments
- AUTO LIABILITY
- ERRORS & OMISSIONS
- Wrongful Act
- CHEMICAL SPRaying
IMPORTANT!!

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Notify ICRMP as soon as the incident is reported to you or as soon as you become aware of it.

If you receive a LAWSUIT, please send it to the Claims Manager IMMEDIATELY.

We only have 20 days from service to respond.

ICRMP POLICY

Any elected or appointed official serving as a volunteer or employee of the named insured, as well as any volunteer or employee of the named insured while acting within the scope of their duties as such. This does not include any appointed or elected official or employee who is serving the named insured as an independent contractor.
PERSONAL LIABILITY - THE “GOOD”

- As a public official in Idaho the it is very unlikely that you will ever be personally liable for your actions on behalf of the County as long as your actions are;
  - Within “course and scope”.

And not intentional or malicious.

THE BAD - OTHER CONSEQUENCES

- Not everything is financial you may be:
  - Disciplined, fired, embarrassed, fined, sent to jail, make the headlines – not in a good way.
  - Burden is shifted to supervisors/managers to make sure that employees act appropriately.
  - No such thing as “I’ll be responsible”.
EMPLOYMENT CLAIMS

MOST COSTLY CLAIMS AREA FOR COUNTIES

LIABILITY FOR EMPLOYMENT DECISIONS

• Negligent Appointment
• Negligent Retention
• Negligent Assignment
• Negligent Entrustment
• Failure to Train
• Failure to Direct
• Failure to Supervise
WHAT YOU CAN DO!

- Have and follow policy
  - Personnel policy
  - Operations policies
- Hire the best employees
  - Take the time to evaluate/don’t hire problems
- Train them
  - Expectations and process (formal and OTJ)
  - Dealing with the public
  - Dealing with co-workers (incl. harassment)
  - Train on when and how to get help

WHAT YOU CAN DO! (CONT)

- Provide good supervision
  - Most liability could be avoided by first line supervisors.
  - Make sure supervisors are trained and managed.
- Get rid of those who persist in misconduct/cannot or will not perform.
  - Don’t believe the myth that you cannot
    - (do so carefully)