

LIABILITY COVERAGE FOR COUNTY OFFICIALS



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LIABILITY ISSUES

- Torts and immunities
- Federal claims
- Types of claims
- Insurance coverage



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IDAHO TORT CLAIMS ACT

IDAHO CODE §§ 6-901 ET SEQ.

- Adopted in 1971 in response to *Smith v. State* and the abolition of sovereign immunity.
- Applies only to TORT actions.
- Does NOT apply to
 - Contract actions
 - Statutorily created claims.
 - Equitable actions.
 - Federal claims.



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4 TOPICS OF THE ACT

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



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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



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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.



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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!



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- 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.



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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!!!



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COMMON PUBLIC ENTITY CLAIMS

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



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ICRMP POLICY

PROVIDES COVERAGE FOR LOSSES IN TWO AREAS:

1st Party—Property

3RD Party—Auto Liability, General Liability,
Errors/Omissions, Chemical Spray, may be either state
or federal.



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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.



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- **Other Covered Property Losses:**

- Crime
 - Embezzlement
 - Public official bonds
- Boiler & Machinery
- Cyber



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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



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IMPORTANT!!

!!!!

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.



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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.



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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.



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THE BAD - OTHER CONSEQUEN CES

- 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”.



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EMPLOYMENT CLAIMS

MOST COSTLY CLAIMS AREA FOR COUNTIES



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LIABILITY FOR EMPLOYMENT DECISIONS

- Negligent Appointment
- Negligent Retention
- Negligent Assignment
- Negligent Entrustment
- Failure to Train
- Failure to Direct
- Failure to Supervise



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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)

