

State of Oklahoma Risk Management Division

Vehicle Liability Webinar

Presented June 16,2011

Speakers

- Gene B. Lidyard – Director of Risk Management
- Toni Blue – Asst. Risk Control Manager
- Jack Roberts – Risk Control Manager
- Nancy Westbrook – Claims Manager



Are you covered?

What you should know before you drive a vehicle on State business.

Objectives

Provide an overview of the State Liability Insurance Program by:

- Explaining the allocation process
- Defining roles and responsibilities
- Identifying accident/incident best practices
- Reviewing the claims process

Vehicle Definition

Any self-propelled vehicle or mobile equipment which is owned by the state, or operated by any state employee who may be acting within the scope of state employment, whether or not the equipment is licensed for road use.

Reference : OAC 580:25-1-2 “Vehicle” (D)

Liability Insurance Definition

Any type of commercial insurance, including self-insurance, administered or procured by the Risk Management Division.

Title 580:25-1-2 “Liability Insurance”

Preventable Collision Definition

One in which the driver fails to do everything reasonable to avoid it.

2010 National Safety Council Manual

Background

- Risk Management administers a self-insured pool for:
 - Vehicle Liability Claims
- These claims are governed by the Governmental Tort Claims Act (GTCA)

GTCA Limits 51 O.S. § 154

- Total liability of the State shall not exceed
 1. **\$25,000** for any claim or to any claimant who has more than one claim for loss of property arising out of a single act, accident, or occurrence
 2. **\$175,000** to any claimant for a claim for any other loss arising out of a single act, accident, or occurrence
 3. **\$1,000,000** for any number of claims arising out of a single occurrence or accident

State Employees Driving on State Business

- Operating a State owned vehicle
 - Liability coverage follows employee
- Operating a privately owned vehicle
 - Scope of employment

Liability

- State Owned
- Personal
- Leased
 - Private
 - Fleet
 - In state
 - Out of state
 - Out of country

Physical Damage

- Specialty Vehicles
- Passenger Vehicles

Actuarial Analysis and Allocation Model

- An outside Actuary is utilized to prepare the following annual reports:
 - “Actuarial Analysis of Program”
 - “Program Cost Allocation Study”
- Analysis and Allocation Reports are prepared for:
 - Property
 - Tort
 - Vehicle**
 - Public Officials Liability/ELL

Actuary's Role

Experience Based Model

- Experience based:
 - Adjusted rate times exposure base
 - Example—Liability program: rate adjusted for actual loss experience (loss development factor) times exposure (number of employees, sales, customer count, etc.)
 - When to use: When loss experience projections are credible due to large volume of losses and when losses are preventable (ex. slip and falls)

Loss History Timeline

Actuary utilizes a five year window of loss history, excluding the most recent year.

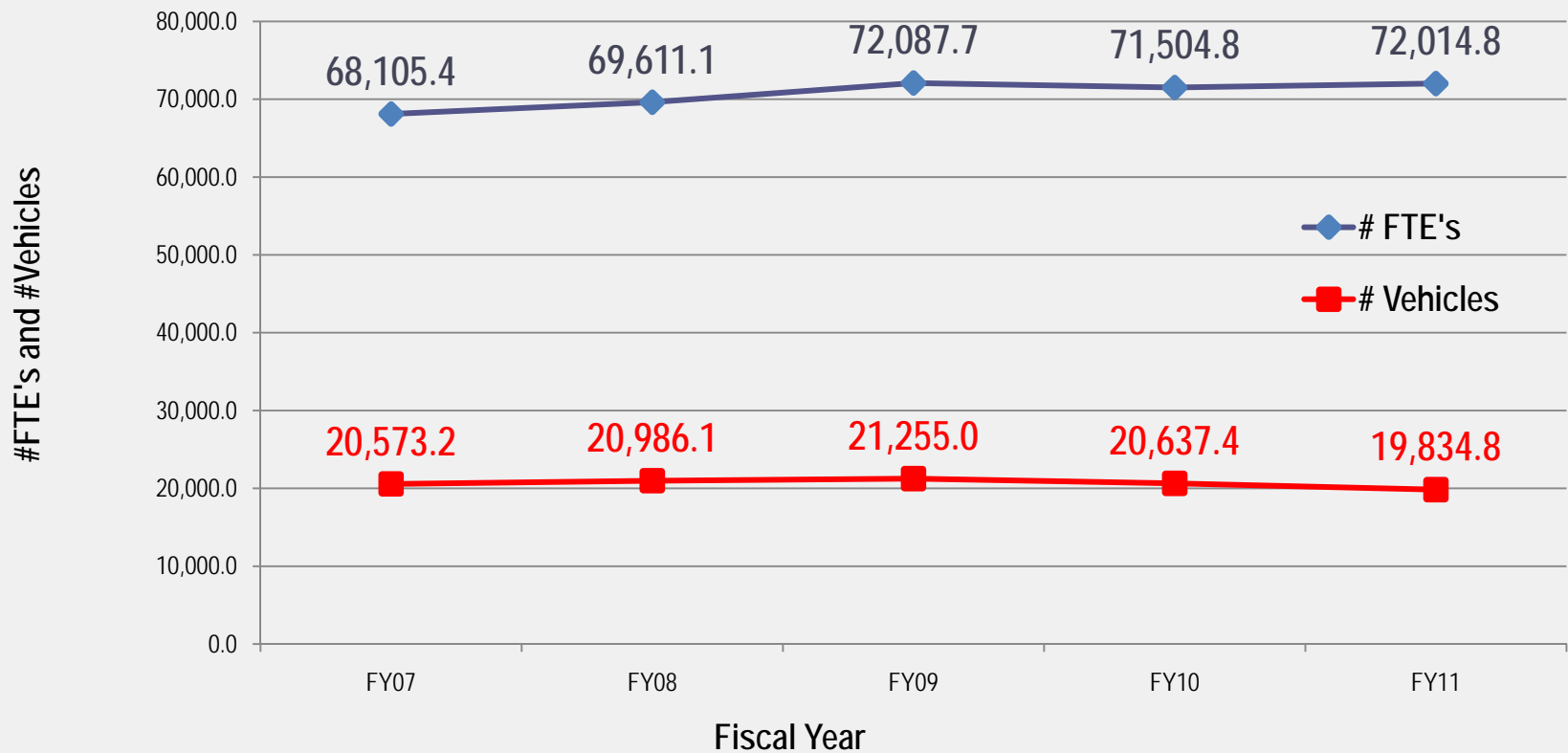
FY11(FY10) **FY09, FY08, FY07, FY06, FY05**



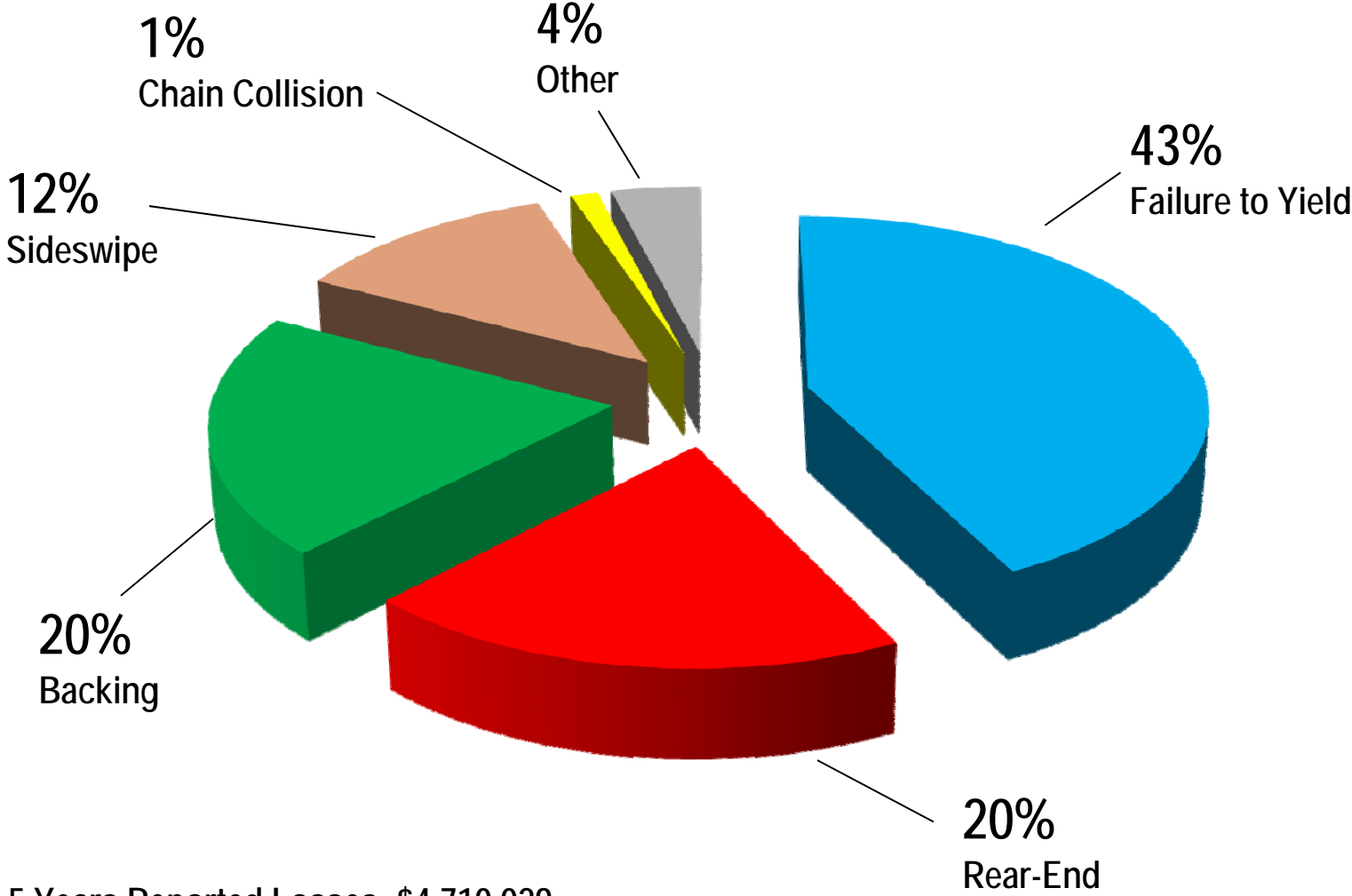
Deductible Determination

- Vehicle Liability
 - No deductible
 - <GTCA limits apply to losses>

#Full Time Employee's and #Vehicles Actuarial Data: FY07-FY11

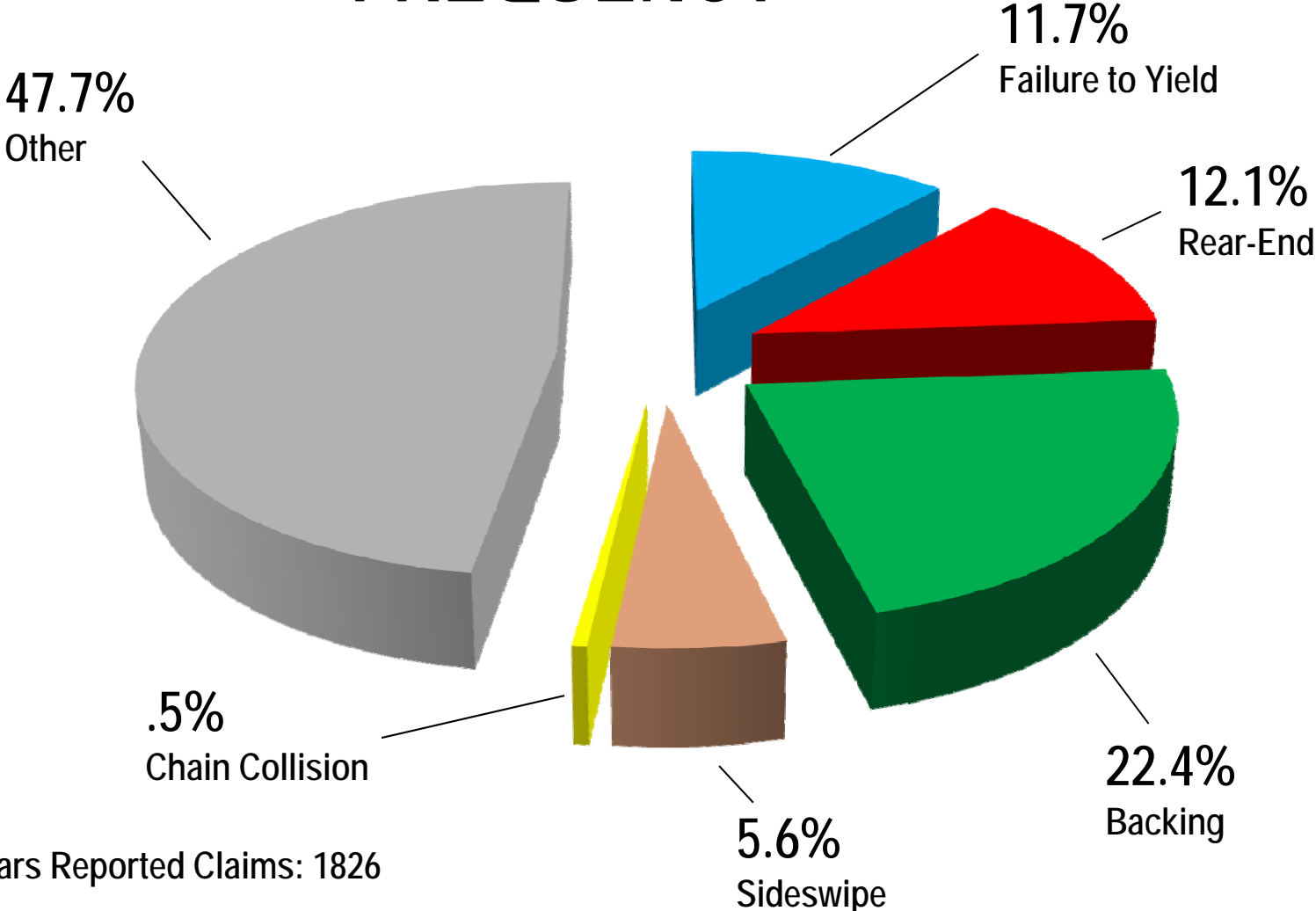


SEVERITY



5 Years Reported Losses: \$4,710,029

FREQUENCY



5 Years Reported Claims: 1826

Defining Roles and Responsibilities

- Driver
- Supervisor
- Agency Risk Coordinator
- Risk Management Claims Department

State employees driving on state business must:

- Possess a valid driver license
- Stay within the scope of employment
- Shield the state from liability incidents
- Perform their job task safely
- Be trained by the agency
- Wear his/her seat belt
- Observe all traffic laws
- Not allow unauthorized persons to operate state vehicles
- Not consume alcohol or narcotics and drive

Driver Responsibilities

- Possess a valid driver license
- Understand scope of employment
- Wear seat belt
- Observe **all** traffic laws
- Not consume alcohol or narcotics and drive a vehicle on state business

Driver Responsibilities continued

- Prior to operating a state or other covered entity vehicle, the driver shall check to see that all necessary safety equipment and control devices are in good condition
- Vehicles used to transport people, such as an activity bus or van, shall contain:
 - Reflectors
 - Fire Extinguisher, type B-C
 - First Aid Kit

Driver Responsibilities continued

- Carry driver license at all times
- Report suspension/revocation of driver license
- Secure loose objects within vehicle
- No more than 3 persons in the front seat; or one person per seat
- Drive in a courteous manner
- Emergency vehicles on a call must exercise due regard for the safety of others

Driver Responsibilities continued

- **Backing**
 - One person: check area behind before backing
 - Two or more: use spotter with hand or voice signals
- **Drivers**
 - Ensure all lights, equipment, wipers, windows, etc. are operational
 - Use turn signals
 - Do not tail-gate
 - Do not turn around on hills, curves, intersections, etc. when your vision is obstructed

Driver Responsibilities continued

- **Parking**
 - Vehicles shall not be parked or left adjacent to the roadway if it will cause a traffic hazard
 - Vehicles will not be parked where they will obstruct the sight of other drivers
- **Special Equipment**
 - Tractor-trailers, mowers, fork-lifts, emergency vehicles, etc. shall not be operated without adequate training provided by the agency

Driver Responsibilities continued

- If involved in a collision
 - Assist the injured and provide reasonable assistance
 - Call local police or 911
 - Notify supervisor
 - Exchange information with other party (complete tri-fold accident form in glove compartment)
 - Complete standard liability incident report
 - Sign scope of employment form

Driver Responsibilities continued

- Avoid distractions
- Give full attention to the road and possible hazards

Executive Order 2010-06

- State employees shall not engage in text messaging or texting (1) when driving government vehicles, or when driving private vehicles on government business, or (2) when using electronic equipment supplied by the state while driving. Some exemptions may apply.

Texting or Text Messaging

- Means:

Reading from or entering data into any handheld or other electronic device, including for the purpose of SMS texting, e-mailing, instant messaging, obtaining navigational information, or engaging in any other form of electronic data retrieval or electronic data communication.

Supervisor Responsibilities

- Train staff before they are required to operate a motor vehicle to conduct state business
- Maintain a clear understanding of scope of employment for staff that operate motor vehicles
- Ensure accident information reporting pamphlet is placed in glove compartment of motor vehicles (state or privately owned)

Supervisor Responsibilities continued

- Ensure proof of self-insurance is in the vehicle
- Investigate all incidents
- Complete scope of employment form when staff are involved in a collision
- Forward all information to agency risk coordinator

Investigation Steps

- Respond immediately when notified of incidents
- Investigate the incident
- Analyze the data & determine root causes
- Recommend corrective action
- Implement recommendations
- Follow up

Investigation

- Look at the overall scene.
- Does anything look odd or out of place?
- Locate all equipment pieces.
- Document any damage
- Take photos from all angles.

Interview

- Interview in a quiet and private place
- Put the person at ease-explain you are looking for facts, not to blame someone
- Tell the person what you want to achieve
- Use open-ended questions
- Do not speak in a bias manner
- Ask what they think caused the incident
- Thank them for their help

Discovery

- Fact: truth, reality, indisputable proof.
- Supposition: an assumption of truth, a premise, a hypothesis-not proof of the truth.

Communicate

- Train employees
 - Who to contact
 - What information to obtain
 - What forms must be completed
 - Where to forward the documents

Agency Risk Coordinator Responsibilities

- Ensures proper information is provided to State Risk Management
 - Standard Liability Incident Report Form #001
 - Scope of Employment Form # 002
 - Accident Information Reporting Pamphlet Form # 009
 - Police report
- http://www.ok.gov/DCS/Risk_Management/index.html

Agency Risk Coordinator Responsibilities continued

- Ensures all reported incidents are promptly investigated
- Acts as primary contact with SRM
- Keeps orderly records
- Keeps monthly summary of liability incidents
- Ensures adequate training of employees

Review

- First aid reports.
- Incident investigation reports.
- Supplemental reports on injuries & illnesses.
- Supervisor's report.
- Employee's past injuries & illnesses.

Analyze

- Based on the information you have obtained-determine the root causes.
- Use a problem solving approach.
- Root cause sources:
 - Equipment
 - Environment
 - Management
 - Behavior

At-Fault Accidents

- Any driver of a motor vehicle involved in an at-fault accident or accidents while functioning as an agent of the State and in which the driver acted negligently (and caused personal injury and/or property damage) shall be required to attend and successfully complete a motor vehicle improvement (MVI) course within 6 months of the accident or be declared uninsurable until the course is completed.

Reference: Title 580-25-9-1 (3)(G)

At-Fault Accidents continued

- Any driver of a motor vehicle, while functioning as an agent of the State, that is involved in two at-fault accidents in a twenty-four month period shall, complete a MVI course **and** be declared uninsurable for 3 months following the second accident.

Reference: Title 580:25-9-1 (3)(H)

Coordination

- Work with Risk Management

If an accident occurs

- Report the loss immediately to the proper authorities
 - Campus Police Department, City Police Department, County Sheriff, Oklahoma Highway Patrol or Fire Department.
- Remain calm
 - Be courteous and polite
- Assist the injured

Reminder

- Do Not Admit Fault or Liability for any accident/incident

If an accident occurs continued

- Complete the Accident Information Form (tri-fold)
 - Accident information form tri-fold and Standard Liability Incident Report are for internal use only
 - Do not give to other party involved in the accident/incident
- Get a police report as soon as it is available

If an accident occurs continued

- Gather as much information as possible.
 - Name
 - Address
 - Phone numbers of all parties as well as any witnesses.

If an accident occurs continued

- Describe area and extent of damage (left front fender, passenger side - tail light, etc.)
- Describe condition of vehicle and note any possible pre-existing damage
- Take pictures when possible
- Get statements from all witnesses

Agency Role

- Report the loss to SRM (405) 521-4999 within 24 hours of the loss (provide written notice of loss immediately thereafter)
- Submit the following forms to SRM
 - Accident Information form (tri-fold)
 - Standard Liability Incident Report(SLIR)
 - Scope of Employment(SOE)
- Do not provide the above documents to the claimant

Agency Role

- Complete the Standard Liability Incident Report and the Scope of Employment as required, preferably within 24 hours of the incident
- Be as detailed as possible
- Take pictures
- Details, Details, Details

IN CASE OF AN ACCIDENT...

STEP #1

Aid the injured

Do not move injured individuals unless absolutely necessary.

STEP #2

DON'T COMMENT!!!

Do not make any statements concerning the assumption of liability. Only give information required by authorities. Do not sign any statement except from an authorized representative of the Risk Management Division or your agency's authorized legal counsel.

STEP #3

Call the police

Give exact location and advise if medical help is needed. Write down the name(s) and badge number(s) of police officer(s) who assist you.

Name _____

Badge # _____

Traffic violation issued to:

State Vehicle Other Vehicle

STEP #4

Facts about your vehicle

Agency _____ Department _____

Driver's Name _____

Department Phone # _____

Make / Year _____ Tag No. _____

Location of Damage _____ Amount _____

STEP #5

Obtain facts about other vehicles

Name _____ Phone No. _____

Address _____

Make / Year _____ Tag No. _____

Drivers License No. _____ Insurance Co. _____

Location of Damage _____ Amount _____

STEP #6

Obtain facts about injured person(s)

Name _____ Age _____

Address _____

Injured Party:

In State Vehicle Pedestrian
 In other Vehicle

STEP #7

Record facts about other property damage (Non-Vehicular)

Owner's Name _____ Phone No. _____

Address _____

Property Damaged _____

Nature of Damage (be brief) _____



State of Oklahoma
Department of Central Services
Risk Management Division

Scope of Employment

DCS-RISK MGMT P.O. BOX 53364

OKLAHOMA CITY, OKLAHOMA 73152

TEL: 405/521-4999, FAX: 405/522-4442

Incident Date: _____ Time: _____ Claim No (DCS use only): _____

Employee Name: _____ Job Title: _____

State Agency Name _____ Code _____

Division or Dept: _____ Phone _____

Address: _____ City: _____ State: _____ Zip: _____

Type of Employment: Full Time Temporary Volunteer Contract

Who Authorized This Specific Duty: _____

Please describe in detail what specific duty was being performed at the time of the incident.

Employee Signature

Supervisor Signature

Please Type or Print Name (Supervisor)

Date

Date

GTCA Time Limits

- Under the GTCA, the claimant has one (1) year from the date of the incident to file a claim. 51 O. S. § 156 (B) provides in part, “A claim against the state or a political subdivision shall be forever barred unless notice thereof is presented within one (1) year after the loss occurs.”

GTCA Time Limits continued

- 51 O.S. § 157 (A) provides in part, “A claim is deemed denied if the state or political subdivision fails to approve the claim in its entirety within ninety (90) days, unless the state or political subdivision has denied the claim or reached a settlement with the claimant before the expiration of that period.”

GTCA Time Limits continued

- 51 O.S. § 157 (B) provides in part, “ No action for any cause arising under this act, Section 151 et seq. of this title, shall be maintained unless valid notice is given and the action is commenced within one hundred eighty (180) days after the denial of the claim as set forth in this section.”

Risk Management Team

- Gene B. Lidyard – Administrator
 - Ed Manek – Underwriting Manager
 - Theresa Howell – Asst. Underwriting Manager
 - Cathye Vester – Fire Program Coordinator
 - Mona Condulle – Administrative Survey Specialist
 - Jack Roberts – Risk Control Manager
 - Toni Blue – Asst. Risk Control Manager
 - Nancy Westbrook- Claims Manager
 - Adriano Coronel- Asst. Claims Manager
 - Tara Hubbard- Sr. Claims Specialist
 - Mary Herrera- Claims Specialist
 - Ellen Totimeh- Administrative Tech
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- Main phone number 405-521-4999
 - Fax number 405-522-4442