

Manager/Supervisor Risk Management

#14– 12/20/2011

TOPIC: DON'T ADMIT FAULT

People say things after accidents that may, or may not, be accurate. The classic statement made at the scene is “I am not injured.” The person’s assertions are recorded in the police report. They are moving, bending, and walking without any signs of discomfort. Then a month later we receive a letter from their attorney claiming that they suffered injuries so serious that they will never be the same, and a demand for a million dollars.

Too often our drivers volunteer, “It was all my fault.” There are psychological reasons for making that kind of statement that run the gamut from guilt to manipulation. But the bottom line is that when you are in an accident your emotions are running high, and your judgment might not be reliable. You cannot undo the accident, so you try to make things better by accepting blame. Trying to calm the post-accident scene by admitting fault may seem like a simple gesture, but the impact can be serious on the subsequent claim.

Another statement that our drivers make is “Don’t worry; my employer will pay for this.” People often take that as a blank check. It is essential that employees understand that they do not have the authority to bind their employer or the JPA; even when you “know” you are at fault, never authorize repairs or treatment. Our ability to pay claims, with public funds, is limited to amounts that we are legally liable for; everything else would be a gift of public funds. Also note, our legal liability for damages can be less than the amount that the claimant’s own insurance carrier is contractually obligated to pay, so it may benefit the claimant to go through their own carrier (who will then subrogate against us).

Evaluating liability factors and determining reasonable damages is a dynamic process that reaches its conclusion with the settlement of a claim. Starting the process with an admission of liability, or a promise to pay damages makes negotiations more difficult, and can result in bigger payments on behalf of the employer and/or JPA.

So, what should you say after an accident: “I am sorry this happened. You can contact my entity, and they will give you a claim form.” Exchange contact and insurance information (if you are driving an entity vehicle there should be a YCPARMIA card in the vehicle). Feel free to call YCPARMIA (666-4456), and our staff will assist you in any way we can. Cooperate with any investigating officers; tell your story of what happened without discussing fault – they will reach their own conclusions without your admission. Never give a written or recorded statement to anyone other than YCPARMIA; it can only be used against you! As a supervisor, make sure your employee follows these guidelines, and then provide the support they need to deal with the emotional stress that follows an automobile accident. If they are injured, get them to a WC doctor, and start the appropriate paperwork.

Next topic: AUTO DAMAGES (The last Auto topic before we move on to Workers’ Compensation).