

**Procedure  
3.37**

**EFFECTIVE  
DATE  
2-14-00**

**Eugene  
Police Department**



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## **Risk Claims**

### **3.37.1 PURPOSE AND SCOPE**

We seek to identify, investigate, and document incidents posing a significant risk of liability. We do this to create the safest environment possible, and to minimize City liability. For procedures regarding on-duty injuries and exposure to pathogens, refer to *Policy 1005 – Exposure Control Policy*, and the *Blood Draw* folder within the *Police Manuals* section of the POM.

#### PART I - Responsibilities and Procedures for All Personnel

- A. Definitions
- B. Reporting risk claims
- C. Employees

#### PART II – Responsibilities and Procedures for Supervisors and Command Personnel

- A. Supervisors
- B. Internal Affairs Coordinator

### **3.37.2 RESPONSIBILITIES AND PROCEDURES FOR ALL PERSONNEL**

#### A. Definitions

1. *City property* - for purposes of this policy, is property which is purchased, rented, or maintained by the city, or in the custody of the city or its employees (other than employees' personal property). Examples of city property are:
  - stop signs, street signs, and traffic signals
  - street lights
  - trees on public right-of-way (e.g., parking or median strip)
  - fire hydrants
  - guard rails
  - curbs and sidewalks

- parking meters
  - property seized for evidence or safekeeping
2. *Risk Claim* - An allegation or an inquiry with a likelihood of civil litigation. A risk claim is investigated to assist the City Attorney in determining what liability, if any, exists in the situation giving rise to the allegation or inquiry.

B. Reporting risk claims

1. A risk claim may be received in any number of forms, including, but not limited to:
  - a. Information which indicates the likelihood of civil litigation, either through a person's stated purpose or an evaluation of the nature of an incident.
  - b. A claim for damages, which may be in the form of a simple request for compensation, a formal Notice of Tort Claim, or a civil lawsuit.
2. Contact your supervisor as soon as you learn of a potential risk claim.

C. Employees

1. Document any incident involving:
  - theft or loss of city property
  - crimes occurring to or on city property
  - damage to any property by a city employee acting in his/her official capacity
  - injury or damage to other property as a result of allegedly defective city property
2. The incident should be documented as follows:
  - a. Unless the information is already adequately documented in a police report, prepare a memorandum if the damaged property is in department custody (e.g., evidence, safekeeping), has been damaged by a department employee, or the claim is a result of allegedly defective city property.
  - b. In cases of theft or loss of city property, or crimes occurring on or to city property, where loss or damage to property is minor, a LEPAS entry will be sufficient. (However, an Incident Report must be prepared in the case of loss or theft of serialized property.)
  - c. Complete an Incident Report in all other cases.

3. Internal memoranda written in anticipation of litigation may have some protection from disclosure. If confidentiality is not an issue, a complete Incident Report will often suffice as a form of documentation.

### **3.37.3 RESPONSIBILITIES AND PROCEDURES FOR SUPERVISORS AND COMMAND PERSONNEL**

#### A. Supervisor

1. Supervisors are responsible to ensure that appropriate documentation, as specified in this policy, is prepared.
2. Route any information on risk claims to Risk Services, the Internal Affairs Coordinator, and the appropriate Division Manager.

#### B. Internal Affairs Coordinator

1. The Internal Affairs Coordinator is responsible for the investigation of risk claims at the direction of the City Attorney.
2. Notify the I.A. Coordinator of major incidents involving department personnel, such as an officer-involved shooting or a serious accident during a police pursuit. The I.A. Coordinator is responsible for liaison with City's Risk Services in these cases. (Information on investigation of use of force incidents appears in *Policy 801 – Use of Force Reporting*. For information regarding major collision investigations, refer to *Policy 602 – Traffic Collision Reporting*.)
3. The city attorney is responsible for retention of cases and files. Following completion of legal action, the I.A. Coordinator may consult with his or her supervisor, Risk Services, and/or the City Attorney about retaining the file.
4. Risk Claim investigative files are generally considered privileged as "work product" under the attorney-client privilege, and therefore are confidential. Other provisions under the "Public Records" law also pertain to these files and reinforce their confidential status.