

## Work Zone Safety for Law Enforcement

### INCIDENT DETAILS

On the date of the incident, a private construction company, who was doing work on a town road and sidewalk, contacted the local police department in order to hire a Police Officer to be present at the work site between the hours of 8:00 am and 3:30 pm and subsequently executed a contractual agreement. The contractual agreement stipulated that, the officer on scene would have the sole responsibility for traffic control, ensuring a safe path of travel through the work zone. Per police department protocol, the department scheduler contacted the next available officer on the overtime list and offered the “extra duty” job, which was accepted. The “extra duty” job did not conflict with the officer’s regularly scheduled patrol shift from 4:00 pm to 12:00 am. The officer was ultimately responsible for ensuring the general safety of any large vehicles entering and exiting the work zone. The officer arrived at the worksite at approximately 7:30 a.m., in a marked police vehicle, in full duty uniform, and wearing his required high visibility jacket.

The officer conducted traffic control activities throughout the day, and also ensured that pedestrians did not walk into the work zone, where the private construction company had dug a large hole in the road near the edge of the sidewalk.

At 3:35 pm, the construction company began moving their dump truck within the work zone, which partially backed into the traffic lane and made contact with Vehicle 1, which was traveling through the work zone. At this time, the officer was observed to be seated in his police vehicle with its warning lights turned off, overhead running lights turned on, which did not flash or sequence. The dump truck made impact with passenger side of Vehicle 1. The force of the impact with the dump truck caused Vehicle 1 to be pushed into oncoming traffic, causing Vehicle 1 to hit Vehicle 2 in a head-on collision. Both passengers Vehicles 1 and 2 sustained significant damage, requiring both drivers to be extricated and transported to a nearby hospital. Approximately one (1) month later the Town received a formal notice of intent to file a lawsuit alleging that the officer did not act in accordance with the contract and failed to ensure the work zone was safe for passenger vehicles to enter.

### LIABILITY INVESTIGATION:

Liability appears to be present for both the construction company and the police department.

**Construction Company:** The Company’s investigation identified that the dump truck operator did not follow their driving policy of utilizing a spotter when backing into traffic. In doing so the operator contributed to the cause of the accident. CIRMA is currently seeking subrogation against the company.

**Police Department:** Although this accident occurred five (5) minutes after the time outlined in the contract between the police department and Construction Company, the officer was onsite at the time of the accident. In the officers witness statement, he notes that he was checking his department cell phone to determine what his evening patrol assignment was going to be. He states he heard the backing signal however, he did not look up or exit his vehicle.

**Operator of Vehicle 1:** There does not appear to be any contributing liability to the operator of this vehicle. He was well within the work zone when the dump truck made contact with his vehicle at the passenger’s side door. The operator was traveling at approximately 25 mph through the work zone and had his headlights on. The operator states that the dump truck was stationary and not moving when he entered the work zone. The dump truck driver began to back up as he was within a very short distance from it. The operator states he did not see the parked police vehicle or an officer until after the accident.

**Operator of Vehicle 2:** There is not liability assigned to this operator as he was traveling within his lane and was also traveling at a lower rate of speed through the work zone. He does state that he observed the police vehicle on the side of the work zone. He also indicated that the view of Vehicle 1 was obstructed by the dump truck. Vehicle 2 operator states that the police vehicle did not have its emergency lights activated and observed the officer sitting in the vehicle.

### OUTCOME

- Both passenger vehicles were totaled and needed to be replaced. The combined value of both vehicles was \$62,500.
- Vehicle 2 operator sustained minor injuries and was treated and released from the hospital the same day. Total medical bills totaled approximately \$2,500.
- Vehicle 1 operator sustained significant injuries consisting of:

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- A large laceration across the forehead, requiring ten (10) stitches to close
  - Three fractured ribs
  - Plastic surgery to his forehead to reduce scarring
  - Fractured left arm
  - A fracture to his right ankle requiring surgical intervention to repair
  - Plastic surgery to his forehead to reduce scarring
- In addition, a claim was made for loss of consortium, distress, anxiety and depression.
  - There was a psychological overlay to this claim which contributed to the claim's severity. CIRMA received an initial settlement demand of \$500,000 and the claim ultimately settled for \$250,000.
- Total value of the claims was \$315,000:
- Property       \$62,500
  - Indemnity     \$250,000
  - Medical Bills   \$2,500

### **CIRMA RECOMMENDATIONS:**

Based on the information presented in this scenario, CIRMA Risk Management recommends the following:

- Review of the contract language between the third party construction company and the department providing an officer.
- Consider implementing a best practice to have overhead warning lights activated on police vehicles while stationed in work zones.
- Ensure the positioning of the police vehicle and officer are visible for oncoming traffic in both directions – this may require review of the work zone design to identify the safest location.
- Ongoing training and communication regarding an officers roll in work zones.
- Ongoing training and communication of departmental policies and procedures for while on scene at a work zone and release procedures.
- Instructing officers to leave at their scheduled time.

**Questions? Ask your Supervisor or contact your CIRMA Risk Management Consultant at (203) 946-3700.**