Reducing Incident – Related Liability

NHI Course 133048
Managing Traffic Incidents and Roadway Emergencies
Module 11
Learning Objectives

- List what elements are required to prove agency liability
- Name two methods of reducing agency exposure to lawsuits
Operational Liability

CALTRANS - $75 million Liability related costs in 2000

- CALTRANS Asst. Chief Counsel
“To get the real dirt, head for the trenches”

Colin Powell

What the troops are saying –

Problem

Personnel responsible for dealing with traffic incidents are not clear on their legal authority or responsibility

Solution

Research to determine if their actions are defined by:

- TRADITION
- PRACTICE
- POLICY
- LAW
Fundamentals of Tort Liability

The following is needed to prove negligence:

- A duty or standard
- A breach of that duty
- An actual loss or harm
- A connection between breach of duty and resulting harm
Positive Traffic Control
Levels of Risks

**Compare**

The negligible or incidental damage to wrecked vehicles associated with relocation

**With**

The cost of a fatality or serious injury in a secondary crash

*It could be a responder!*
What is the Difference Between Claims vs. Negligence Suits

**Claims for Vehicle Property Damage**
- Common-most are denied
- Typically range in the hundreds

**Negligence Law Suits**
- Can have a profound effect on agency programs or the financial collapse of private providers
- Usually range in the millions for wrongful injury or death
Potential Elements of High Liability for Responders

- Failure to Act
- Failure to Warn
- Failure to Protect
- Deliberate Indifference
- Gross Negligence
Good TIM Programs can Reduce Liability Risks

- Puts Public Safety Ahead of Property Concerns
- Limits Responder Exposure
- Reduces Secondary Crashes
- Validates that the Actions Taken Were in the “Interest of Safety”
Continue to look for opportunities to upgrade scene traffic controls toward the MUTCD Standards
Video Presentation

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