LESSONS LEARNED

A Risk Management Publication

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# LESSONS LEARNED

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EXECUTIVE SUMMARY
The City of Norwalk used risk transfer to eliminate injuries incurred by its Department of Public Works’ trash collection operations, thereby significantly controlling its escalating Workers’ Compensation costs. The City outsourced its refuse pick-up via a multi-year contract with a private hauler and reassigned Sanitation workers to other jobs within the Public Works department. Cost savings for the first two years of outsourcing are estimated to be $1,210,000.

PROBLEM
The numbers were grim: from 2005 to 2010, Norwalk Sanitation workers, who represented 10% of the Public Works staff, accounted for 42% of its Workers’ Compensation claims. Claims during this period totaled $538,000 and resulted in a loss of 1,400 work days. Catastrophic claims from three employees resulted in settlements totaling over $1,206,000. These costs factored into higher Workers’ Compensation costs of $662,542 for 2012-13, a 54% increase over 2011-12.

ACTION
The challenge was clear: the City had to control escalating costs by reducing the potential for employee injuries. After a thorough analysis of risk management options, City leaders decided to use a risk transfer approach by outsourcing refuse pickup. Amid resistance by the Sanitation workers, the competitive outsourcing approach that the City pursued gave both private contractors and the union the right to bid on the work. The best proposal was a multi-year contract with a private vendor who invested in new trucks and assumed the associated risk, including the Workers’ Compensation exposures.

LESSON LEARNED
Outsourcing, sometimes confused with privatization, refers to the transfer of a business activity or function to a third-party service provider. Well-structured outsourcing arrangements bring service efficiencies and reduce risk exposures to the municipality. The City of Norwalk achieved its cost savings objectives by managing the contracting process and effectively transferring risk.

Benefits to the City, its employees, and residents brought by outsourcing of the sanitation operations were immediate. Employee injuries for refuse hauling and the cost of Workers’ Compensation are no longer the City’s responsibility. Sanitation workers have been reassigned positions within the Public Works department, preventing layoffs. The City is now able to provide, through its third-party contractor, refuse hauling for its residents.

SAVINGS
The first year savings are estimated at $260,000 and at $950,000 for each year thereafter.

CIRMA RESOURCES:
- Risk Transfer Best Practices Guide
- Independent Contractors Best Practices Guide

Order these Best Practice Guides online at CIRMA.org/Learning Media Library.

For more information on this topic, please contact your CIRMA Risk Management Consultant. Visit the CIRMA.org/Training & Education page for a list of current training programs.
EXECUTIVE SUMMARY

Water damage caused by frozen and broken pipes in public buildings is CIRMA’s leading loss driver of property claims. Since 2002, CIRMA has received 1,112 water damage claims with costs reaching over $22.8 M. Freezing winter temperatures combined with unheated or under-heated areas in buildings, which causes water pipes to freeze and fail, are the root cause of most of these water damage incidents. Most of these claims can be prevented with easy, cost-effective solutions.

SCENARIO

At about 7:30 AM, the fire department received a water-flow alarm from the sprinkler system in a local school. When they arrived, there was no fire. Instead, they found water escaping from a burst sprinkler system in a vestibule area. Although they were quickly able to shut off the valve, most of the estimated 800 gallons of water had found its way to the gym, where it caused over $120,000 in damages to the hardwood floor.

CAUSES OF LOSS

There were several contributing causes for the loss. The fire sprinkler pipes had frozen because the area was not effectively heated and insulated. The heating system for this area was not adequate nor was it readily accessible for preventative maintenance. In an effort to save on energy and heating costs, even during the extremely cold winter weather, the school maintenance staff had lowered the building temperature below 55°.

Even though the building maintenance staff cleared the standing water on the gym floor, they did not remove the water that permeated the joints and had become trapped beneath the polyurethane top coat. On bad advice from the floor’s manufacturers, the maintenance staff tried heating the gymnasium area in an effort to remove moisture; however, this only worsened the humidity conditions, and the wood floor began to expand and cup. The school did not notify CIRMA of the loss until several days had past and damage became irreversible. More than half of the entire gym floor required complete replacement and the facility was closed to school sports events for several months.

LESSONS LEARNED

- **Design and Build Phase.** Throughout the entire design and build process, ensure that effective heating and insulation will be provided to areas located above suspended ceilings, near the roof, exterior walls and doors. This is often overlooked and much more costly to deal with after construction and occupancy.

  - **Water Flow Alarms.** Whether it is a fire or a pipe burst, inexpensive water flow alarms will ensure a quick response of the fire department. In this case, the local volunteer fire department knew how to shut the system down, thereby greatly reducing the damage. Without the alarm, the damage would have been much greater.

  - **Post the Location of Shut-off Valves.** Ensure all appropriate people know the location of utility shut-off valves in all of your buildings. Use appropriate signage and make sure shut-off valves are accessible and working properly before cold weather sets in.

  - **Inspect Pipes.** Pipes and the areas around them should be inspected on a regular basis. Pay special attention to vulnerable locations such as vestibules, against outside walls, and suspended ceilings. Ensure that there is adequate heat and that the pipes are insulated.

  - **Maintain Adequate Temperatures in Buildings at all Times.** Shutting off or lowering the heat too much can spell disaster. Building and room thermostats should never be set lower than 55°. Keep thermostats above 65° when the outside temperatures may dip below 0° or when the facility is unoccupied for a weekend or longer.

  - **If It’s a Problem Today, It Will Be a Problem Tomorrow.** The maintenance staff knew there was a problem keeping this particular area heated. In the past, pipes had ruptured and “leaked” but never to this extent. This situation was treated as a nuisance, without thought that more significant damage would occur.

  - **Report Losses to CIRMA Immediately.** CIRMA uses a broad network of building recovery specialists who are able to mitigate all types of property losses. They will respond within hours with the most advanced resources available to get your building back in service as quickly as possible.

CIRMA RESOURCES:

- **Property Conservation Best Practices Guide**
- **Cold Weather Property Maintenance Training Program**
- **Tail Gate Topics**

For more information on this topic, please contact your CIRMA Risk Management Consultant. Visit the CIRMA.org/Training & Education page for a list of current training programs.
EXECUTIVE SUMMARY

Seasonal employees perform many job functions within municipal operations. Typically these employees are high school or college age students who are employed for a short period. In many cases, these individuals are employed with Parks and Recreation, Public Works, or school custodial departments. CIRMA has identified a growing trend in the frequency of Workers’ Compensation claims involving seasonal employees. The severity of these claims are significant in some cases.

SCENARIO

On his first day of work, a seasonal employee was informed that he would be on landscaping duty and asked by his supervisor if he knew how to operate a weed trimmer, to which he responded that he did. The supervisor brought him to the park where he was to clean the weeds and brush, then told him that would be back in a few hours to check his progress. The supervisor did not provide further instruction. The seasonal employee was trimming grass with the weed trimmer when debris struck his left eye. Unfortunately, he was not wearing eye protection at the time.

The employee did not report the incident to the supervisor until three days later, when his eye injury had not improved. The employee was treated for corneal abrasion, but later developed an infection that required surgery. The employee will have permanent eye impairment. Cost of the claim: $141,050.

CAUSES OF LOSS

- Employee did not receive job orientation or safety instruction.
- There was no on-site supervision of the work activity.
- Employee was not trained on the hazards of the work and was not provided with the appropriate Personal Protective Equipment (PPE).
- The employee’s supervisor was not trained in managing seasonal employees.
- Organizational culture did not consider training seasonal employees a priority or necessary.

LESSONS LEARNED

Because many seasonal employees are inexperienced, unfamiliar with safety precautions, policies, and procedures, and may be tasked with physically demanding jobs, the following risk management best practices should be implemented for all seasonal staff:

- Seasonal staff should be provided with job and safety orientation that includes, at a minimum, applicable OSHA compliance topics, including Personal Protective Equipment, back injury prevention, and any other applicable standards.
- Seasonal employees should have the physical capability to perform the assigned job duties and be provided with appropriate Personal Protective Equipment.
- Seasonal employees should be trained on injury reporting policies and procedures.
- All seasonal employees should be monitored on a regular basis to reinforce safe-work practices.
- A formal Return-to-Work policy should be fully implemented for all seasonal employees.
- Supervisors should be trained on managing seasonal employees.
- Before hire, employment start dates and end dates should be established, then communicated in writing and signed by the employee.
- Safety for all employees (seasonal, part-time, full-time) should be an organizational priority that is directed and supported by leadership.

CIRMA RESOURCES

- Summer Maintenance Safety Orientation Training Kit
- Safety Orientation for Seasonal Employees Training Program

For more information on this topic, please contact your CIRMA Risk Management Consultant. Visit our CIRMA.org/Training & Education for a current list of training programs.
EXECUTIVE SUMMARY
A safety training program provided by the local utility helped a Department of Public Works employee avoid electrocution during a roadway incident. The training enabled the employee to remain calm, composed, and respond appropriately until the utility and first responders could secure the scene and de-energize a downed power line. Whether regularly scheduled or in response to a specific incident, employee training helps keep safety awareness high and instills good habits.

SCENARIO
Earlier in the year, Public Works management had scheduled an electrical safety training session provided by CL&P (now Eversource Energy); the training was prompted by a fatal incident involving a downed power line in a nearby town.

That winter, a snowplow was traveling on a state roadway when it ran over a downed power line. The live power line became entangled in the truck’s wheels.

The driver, a young new-hire, stayed inside the truck as he had been instructed during the training session. He reported to Police Dispatch that the live power lines were arcing, smoking and burning. The utility, Police Department, and Fire Department responded quickly. The utility crew was able to de-energize the power lines and remove it from underneath the truck before it caught fire. Three of the truck tires were destroyed from the electricity and heat from the power line.

LESSONS LEARNED
- **Safety training saves lives.** There is often no time to think during an emergency, and instinctive reactions may be wrong. Safety training helps ingrain safe work habits and awareness of what to do in an emergency.
- **Use hazard assessments to develop safety training programs.** Downed power lines are only one of the many hazards DPW and other municipal workers face. Snowplow operators, in particular, spend long hours behind the wheel in severe weather conditions. The driver in this incident knew what to do because his department learned from another incident and scheduled training time for their employees.
  - **Engage outside resources for training support.** The department recognized that the utility was the expert and made good use of the safety training programs they provide.
  - **Scheduling training for new-hires, as well as refresher training for all.** Training is especially important for inexperienced employees. Periodic refresher training keeps safety awareness high and builds good safety habits throughout the department.

SAVINGS
The driver in this incident was able to go home at the end of his shift without injury, an incalculable savings to him, his family, the department, and community. The cost of the property loss associated was limited to the minor damage to the vehicle and its tires.

RESOURCES:
- Training programs provided by your local utilities.
- CIRMA Snowplow Safety and other OSHA Safety Training & Education programs.

For more information on this topic, please contact your CIRMA Risk Management Consultant. Visit our training schedule at CIRMA.org/Training & Education Programs page for a list of current training programs.
EXECUTIVE SUMMARY

The majority of student injuries that result in liability claims to CIRMA members occur in Technology Education classes—and most of these involve woodworking saws. The financial loss to the school and the personal loss to the student is often high and sometimes life-altering. Other Tech Ed courses in automotive work, masonry, electronics, welding or robotics, for example, also pose significant safety risks to students. The failure to train, the failure to warn of dangers, the failure to properly supervise, and allowing the use of faulty, unsafe equipment have contributed to the finding of negligence against schools.

SCENARIO

During the third week of the new school year, an 11th grade boy severed his left thumb on a vertical band saw during Tech Ed. The boy was working on a wooden key-chain holder which included curved cuts through the wood stock. Vertical band saws require the operator to hand-feed and manipulate the stock against the blade to saw along a predetermined line. The saw operator must also keep the stock flat and exert the proper cutting force. The teacher was working with another group of students when the injury occurred. The machine guard had been broken by another student the week before.

First aid was provided at the time of injury but the thumb could not be reattached in surgery. The student’s medical costs, legal defense, and the settlement totaled nearly $250,000. Although band saws are relatively safe compared to other woodworking machines, when an injury does occur, it is often a serious one, such as an amputation.

CAUSES OF LOSS

- Student did not receive adequate safety instruction.
- There was no guard on the band saw at time of injury.
- Only minimal training on the use of the saw was provided before the injury happened.
- There was no signed acknowledgment form of safety training or safety demonstrations.
- The curriculum did not clearly define the safety training for specific equipment in the wood shop.
- There were push sticks available to students, but all were in use by others at the time of incident.

LESSONS LEARNED

- Teachers, including substitutes, should understand safety requirements and be able to provide safety training to students.
- Safety training should be specified for students; training may include lectures, demonstrations, or group activities.
- Before being allowed to operate equipment, students should be required to demonstrate safety skills and to sign an acknowledgment form that lists the specific safety rules and hazards.
- All shop tools and power equipment should be inspected by the teacher before the start of class. (This can be an informal walk-around to verify guards are in place and safety equipment is available.)
- Visible warning signs should be posted on or near equipment stating the potential hazards.
- Ensure that a teacher is actively supervising students at all times when equipment is being operated by students.
- Proper safety attire, including safety glasses, must be required at all times (no dangling jewelry, loose clothing, loose hair or open-toed shoes).
- Ensure all applicable ConnOSHA standards are met.

For saws in particular:

- Guard the entire blade except at the point of operation of band saws. Require a self-adjusting guard for the portion of the blade between the sliding guide and the upper saw so that it raises and lowers with the guide.
- Require use of a push stick or manual feed arm to control the stock.

RESOURCES

www.OSHA.gov/SLTC/etool/woodworking/finish_equip.html

For more information, please contact your CIRMA Risk Management Consultant. CIRMA Consultants are available to conduct assessments of programs and physical locations. Visit www.CIRMATraining.org for a current list of training programs.
LESSONS LEARNED

EXECUTIVE SUMMARY
A 53-year-old claimant who had worked for the Town for over 30 years before his retirement, filed a Workers’ Compensation claim for a cancer he asserted was related to an occupational exposure. Because the 30C form was not forwarded to CIRMA in time, CIRMA was prevented from denying, and then defending against the claim, resulting in a large settlement that may have been avoided.

BACKGROUND
Shortly after retiring, the claimant was diagnosed with prostate cancer and then underwent surgery and radiation therapy. During this time, the CIRMA member reported the Workers’ Compensation claim to CIRMA in which the claimant alleged that his condition was related to an occupational exposure he received during his employment with the Town.

CIRMA issued a denial when it received the First Report of this injury due in part to the fact that the employee was retired when the claim was made and causality between the claimant’s condition and occupational exposure was disputable. The claim was heard at an informal hearing with the Workers’ Compensation Commission a month after the First Report of Injury to CIRMA. At the hearing, the claimant produced signed documents acknowledging that the Town had been in receipt of a Form 30C along with a letter that addressed the causal relationship between the prostate cancer and the claimant’s employment.

Although CIRMA had issued a denial upon its receipt of the First Report of Injury from the Town, the denial was not made within the mandated 28-day response period that began the day the Town received the 30C form.

When a Form 30C is served upon an employer, there is a statutory 28-day response period in which the claim can be denied and contested. Since the Town had not notified CIRMA that it had received the Form 30C, CIRMA’s denial was not issued in time, thus resulting in a claim that CIRMA is barred from denying, including any element of the claim whether past, present, and future lost time and medical benefits, and any potential widow’s benefits based upon the surviving spouse’s life expectancy.

By failing to respond within the 28-day period, CIRMA was faced with the issue of statutory preclusion. This includes:
- Inability to defend compensability.
- Inability to defend extend of disability.
- Increased litigation and administrative costs.

Due to the size of the total liability assessment, significant reserves were established that significantly impacted the Town’s premium. Ultimately, this claim was settled at a mediation hearing, somewhat mitigating the loss; however, the settlement of $375,000 could have been avoided had the Form 30C been provided to CIRMA by the member in time.

LESSONS LEARNED
Timely processing of a Form 30C is critical when it is served. The 30C forms are State forms and, as outlined in Public Act 31-294c – Notice of a Claim, use of the form is voluntary on the part of the injured employee. (Please Note: A signed letter containing the required information can also act as a formal notice of claim). A recent change to the State statute now directs municipal employees who choose to file a Form 30C to serve it to the Town Clerk only.

Therefore, municipalities should have appropriate protocols in place so that any Form 30C that is served upon the Town Clerk is immediately reported to CIRMA. As mentioned, there is a 28-day period in which a response needs to be communicated by CIRMA on behalf of the employer, and, if not communicated in a timely manner, CIRMA could be precluded from defending against the claim.

To forward a Form 30C directly to CIRMA, please send by facsimile (203-773-8134) or contact a CIRMA representative at (203) 946-3700.

RESOURCES:
- Public Act 16-112 White Paper*

*Download the white paper from www.CIRMA.org/Publications
For more information on this topic, please contact your CIRMA Risk Management Consultant. Visit CIRMA.org/Training & Education page for a list of current training programs.
LESSONS LEARNED

EXECUTIVE SUMMARY
Mr. Smith, a school custodian whose annual income is $50,000 and who files tax status, F – Single, earns an average weekly wage of $764. All employees, under the school’s current labor union collective bargaining agreement, are guaranteed a full and unlimited salary continuance. Workers’ Compensation benefits provide injured employees 75% of after-tax salary payable by Workers’ Compensation insurance. The Board of Education’s voluntary salary continuation program, per the contract, supplements the Workers’ Compensation benefit with an additional wage payment of 25%.

BACKGROUND
While clearing snow around the school, Mr. Smith slipped on ice and tore his ACL. This injury caused Mr. Smith to be out of work, during this time he collected temporary total disability benefits.

IMPACT ON SCHOOL BUDGET
Workers’ Compensation insurance pays approximated $575 per week, which is 75% of Mr. Smith’s after-tax salary of $764. He receives an additional payment, by the Board of Education, based on the voluntary salary continuation benefit, of approximately $240 per week. Therefore, Mr. Smith will now receive $815 per week while he is out of work.

This is $50 or 6.5% more than Mr. Smith’s regular weekly wage.

KEY RECOMMENDATIONS
• Assess union contracts and employment policies to identify voluntary salary continuation language.
• Analyze lost time claims to determine the number of employees receiving voluntary salary continuation benefits. This will help in calculating salary continuation costs.

MANAGING SALARY CONTINUATION BENEFITS
• Implement contract/policy language to manage costs:
  – Waiting Period
  – Gradual Decrease
  – Specified Duration
  – Specified Amount
• Implement a Formal Return-to-Work Program.

RESOURCES:
Salary Continuation Management Tool. Contact your CIRMA Risk Management Consultant.

For more information on this topic, please contact your CIRMA Risk Management Consultant. Visit our training schedule at CIRMA.org/Training & Education page for a list of current training programs.
LESSONS LEARNED

EXECUTIVE SUMMARY
Snow events are a relatively common occurrence in Connecticut; depending on the location in the state, snow accumulation ranges from 16 to 42 inches annually. Given the frequency of snowfalls, mixed with the increasing number of large storms over the past number of years, snowplow drivers are being asked to work longer hours.

SCENARIO
The incident occurred at approximately 5:15 PM immediately following a January snow storm, which had caused snowbanks between 5 to 10 feet high. A public works driver, who had been on the road for approximately nine hours without a break, reported feeling fatigued as he was driving home from his scheduled shift in a DPW flatbed pickup truck with snowplow attached. As he approached an intersection with a stop sign, he turned left without stopping. While turning, he struck a 68 year-old female in the crosswalk, throwing her approximately 10-15 feet in the air and onto a snowbank. The driver apparently did not see that he hit the claimant and continued driving down the street without stopping. Two witnesses confirmed that the pickup truck failed to stop for the stop sign and struck the claimant.

LESSONS LEARNED
• Policy for Break Time. Develop, communicate, and enforce a policy that identifies how often Snowplow Drivers should take breaks during both Normal Day Operations and “After Hours” Operations. Maintain documentation that verifies the Policy for Break Time is being followed.
• Conduct Regular Internal Training. In the majority of liability lawsuits, the plaintiff’s attorney tries to prove that either the defendant failed to follow policy or that the department has provided inadequate training on that policy or applicable laws. Consider implementing a training curriculum that communicates internal policies and job-related hazards, including best practices on how to handle them. Such training topics could include proper hydration and nourishment during snow events, as well as internal policies related to break time.
• CIRMA Snowplow Safety Training. CIRMA offers a number of Snowplow Safety trainings, usually held in the fall right before snow season. Consider having staff attend to further ensure preparedness for the season’s upcoming snowfall events.
• After Accident Review. The accurate completion of an accident investigation will aid in the prevention of future accidents by discovering and removing accident causing conditions, implementing corrective actions, and clarifying training and retraining needs.

SAVINGS:
The scenario illustrated above led to an out-of-court settlement in the amount of $300,000. Other snowplow incidents with similar factors have amounted to over $6 million in CIRMA Liability-Auto-Property Pool claims over the past five policy years. Many of these accidents are either preventable, or the damages caused by them can be mitigated through programs outlined in the Lessons Learned section.

For more information on this topic, please contact your CIRMA Risk Management Consultant. Visit our training schedule at CIRMA.org/Training & Education page for a list of current training programs.
EXECUTIVE SUMMARY

Given the changing environment and unpredictability of animals, Animal Control operations present many inherent risks and exposures. For many years, it was thought that all Animal Control officer injuries were a result of doing the job and very few were preventable; however, further analysis of the types of claims that these employees experience suggest that many can be mitigated or controlled. Both the analysis of injuries and discussions with experts in the field resulted in the following best practices and lessons learned.

SCENARIO

The claimant, a 52 year-old Animal Control officer, had been working two consecutive days by herself without assistance. While working alone, she removed several dogs from their kennels for exercise in the pen area. As the claimant was closing the gate, one of the dogs aggressively charged at her and bit her right master arm. The claimant tried to pry the dog off with her nightstick, but was unable to loosen its grip. She was able to drag the dog about 15 feet to where her car was parked to get access to a large flashlight, which she then used to strike the dog in an attempt to loosen its grip. Unfortunately, after freeing herself, the dog continued to attack and bit off the tip of her left finger. The claimant was able to reach for a nearby panic alarm, notifying an employee from Public Works to come and assist.

LESSONS LEARNED

- **Radio communication connected to dispatch.** A recent survey of 78 Animal Control Officers by the Connecticut Municipal Animal Control Officers’ Association (CMA-COA) showed that approximately 21% of all respondents do not have access to radio communication and 13% only have radios in their vehicles. To ensure that these officers have the ability to ask for help when emergency situations occur, it is recommended that each officer has access to a portable radio that is connected to someone with the ability to intervene or authorize assistance.

- **More relevant training, ranging from refreshers to personal protective equipment best practices.** CT Gen Stat § 22-328(f) states that, “each animal control officer shall complete a minimum of six hours of continuing education related to the duties of an animal control officer each calendar year.” However, not much training is offered on officer safety. Safety training helps promote safe work habits and situational awareness on what to do in an emergency.

- **Proper equipment in the kennel.** Ensure that the kennel is equipped with strategically located bite sticks and other equipment in the case of an emergency.

- **After-Accident Review.** The accurate completion of an accident investigation will aid in the prevention of future accidents by discovering and removing accident causing conditions, implementing corrective actions, and clarifying training and retraining needs.

SAVINGS:

From July 1, 2012 to October 31, 2017, there were 202 Workers’ Compensation injuries reported by Animal Control Officers to CIRMA, amounting to over $1.7 million in damages. By implementing the programs outlined above, the municipality will have a better understanding on how to limit preventable accidents and minimize exposures.

RESOURCES:

Connecticut Municipal Animal Control Officers’ Association

CT Gen Stat § 22-328

For more information on this topic, please contact your CIRMA Risk Management Consultant. Visit our training schedule at CIRMA.org/Training & Education page for a list of current training programs.
LESSONS LEARNED
EXECUTIVE SUMMARY
Seasonal employment programs often hire high school- and college-aged young adults on a temporary basis to assist with projects throughout the organization. They are mutually beneficial to the employee, who gains valuable work experience, and to the employer, who gains an expanded workforce throughout the busy summer months. Although they are only employed with the municipality for a short time, seasonal employees can pose a significant Workers’ Compensation exposure if they are misused or unsupervised. An analysis of seasonal employee injuries indicates that there are areas of improvement and measures that municipalities can take to prevent potential injury to seasonal staff.

SCENARIO
The claimant is a 21 year-old, part-time seasonal custodial employee with the Board of Education. On the day of the incident, the claimant and his co-worker were directed by the supervisor on-site to sit against large, heavy tables in the back of a box truck while another co-worker drove the vehicle to another job site a mile down the road. While en route, the truck took a sharp right turn, causing approximately six or seven tables, with an estimated total weight of 600 pounds, to fall onto the claimant. The claimant’s body folded in a forward flexed position with the weight of the tables on top of him, pinning him for several seconds.

Damages. The claimant, who had no prior history of injuries or illness, was taken to the hospital the next day where it was found that he suffered a compression fracture of the L4 vertebrae. The injury resulted in a four-month period in which the claimant was totally disabled from work at his district job and at his concurrent employment with a private landscaping company. While surgery was not performed, the claimant received extensive medical treatment and was ultimately assigned a 10% permanent partial disability rating to his back. Claim costs totaled $157,000.

Key Recommendations. By implementing the following programs municipalities will be able to reduce preventable accidents and exposures.

Do not allow passengers in the back of trucks during transport. Industry best practice is to never allow passengers to ride in the cargo area while the vehicle is moving. Instead, secure the load in the back of the truck with appropriate equipment, as necessary. Consider creating a policy that employees must secure equipment in transit and regularly train all employees to this policy.

Identify areas of improvement at the supervisory level. The incident observed in this document is partially the result of a lack of judgment from the on-site supervisor. Continue to train and educate supervisors on how to effectively communicate with and manage staff. Hold supervisors accountable.

Train Seasonal Employees. Seasonal employees often go through an accelerated orientation program compared to full-time staff. This, coupled limited work experience, often leads to a lack of understanding on the how’s and why’s of employee safety. It is important to train all staff on department policies and procedures, including the program on vehicle use.

RESOURCES:
For more information on this topic, please contact your CIRMA Risk Management Consultant. Visit CIRMA.org/Training & Education page for a list of current training programs and E-Learning Center programs.
EXECUTIVE SUMMARY
Tax time is a period of increased computer hacking and email phishing scams due to the amount of personal and financial information being handled. Cybercriminals have increasingly targeted municipalities because they are considered high value targets that hold a significant amount of personal identifiable information that can be stolen and sold, and because they are often soft targets. A cyber phishing scam at a CIRMA member resulted in a data breach of personal information and a significant liability loss.

SCENARIO
The incident occurred in February when an employee in the Finance Department received an email that appeared to be from a coworker. The email asked for the W2 forms of all employees throughout the municipality. Without verifying the identity of the coworker or the nature of the request, the employee forwarded over 1,900 W2 forms in a reply email. It was later discovered that the email request was not sent from a coworker, but by a cybercriminal posing as a coworker by “spoofing” the coworker’s email address. Once the breach was discovered, the CIRMA member notified local authorities and CIRMA’s claims department.

Damages. Once CIRMA was notified, CIRMA’s cyber liability carrier was able to begin its forensic investigation. It was discovered that, out of the over 1,900 W2 forms that were released, 98 fraudulent tax returns were filed. Under Connecticut Public Act 15-142, the employer is responsible for providing credit monitoring to all employees who have been affected by a data breach for two years following the incident. CIRMA’s cyber liability carrier was able to assist the Town in establishing this program almost immediately, which provided ease of mind to the Town and their employees. However, due to the number of fraudulent tax returns that were filed, there was a potential for $600,000 in exposure. The claim was ultimately closed for $72,000.

Key Recommendations. By implementing the programs outlined below, the municipality will have a better understanding on how to limit preventable accidents and minimize exposures.

LESSONS LEARNED
- Verify the source of E-mail requests, especially those that ask for personal identifiable information.
- Encourage staff to report all suspicious cyber activity following with the department’s internal reporting procedures.
- Contact local law enforcement and CIRMA if there is suspicion of a cyber-attack.
- Develop, implement, and provide frequent training to all staff on the municipality’s Cyber Policy.
- Provide frequent training to all employees on current and emerging cyber trends.

RESOURCES:
Understanding the Basics of Cyber Security Training Program
Cyber Security Threats to Public Entities - E-Learning Program
CIRMA’s Cyber Tips & Alerts E-Publications
Cyber Security Whitepaper

For more information on this topic, please contact your CIRMA Risk Management Consultant. Visit CIRMA.org/Training & Education page for a list of current training programs and E-Learning Center programs.
EXECUTIVE SUMMARY

While it is impossibility to completely eliminate all risks in an operation, Public Entities have come a long way in minimizing the potential effects of owning and operating fuel tanks. Although intentions are good, there may exist inefficiencies in a system or miscommunication between parties that can lead to damages. Learning from these events allows us to almost constantly analyze and potentially change our current behaviors in an effort to mitigate future losses.

SCENARIO

On December 27th, a leak was observed in the above ground diesel storage tank located at a CIRMA Member’s Bus Garage. Diesel was observed leaking into a nearby brook and surrounding areas. When the leak was discovered, the Member notified CIRMA, DEEP, and Connecticut Tank Removal to begin with damage assessments, cleanup, and containment. CIRMA then informed its Master Pollution Carrier, who provides the pollution coverage, to assist with these efforts and respond to the claim.

INVESTIGATION AND DAMAGES

The Town owns and is responsible for the fueling of the tank; however, the School District is the sole operator, as they use the tank to fuel their school bus fleet. It was undetermined if the Town or the School District was responsible for implementing and following a preventative maintenance program or spill plan, as this information had not been formally documented. Upon further investigation, it was determined that the leak had been occurring for quite some time, potentially for many months. The Town was unable to pinpoint an exact date when the leak had started due to the lack of a formalized inspection program that included testing of the tank alarm.

The Pollution Carrier accepted coverage for the first party pollution loss under the CIRMA Master Pollution policy. Due to the widespread environmental impact of this claim, it was immediately classified as a large loss with $3 million in reserves. Ultimately, due to the excessive amount of cleanup and containment costs, the member exposure totaled $2.6M. The Town was able to reduce their $2.6M exposure down to $1.6M, by having a pollution policy that paid its policy limits of $1M towards it.

LESSONS LEARNED

• Develop a Memo of Understanding (MoU). If the Owner and Operator of the tank are separate entities (i.e. the Owner is the Town and the Operator is the School District), develop an agreement that formally identifies who is responsible for monitoring fuel deliveries, preventative maintenance, spill prevention program, subsequent repairs/cleanup, etc.

• Spill Prevention Program. Create and implement a spill prevention program, which may include assessments and testing, such as overflow valve testing. Elements of this program may be contracted out to a third party. The municipality’s legal counsel should review all third party contracts to ensure necessary liability is appropriately transferred to the third party.

• Engineering Controls. Consider ensuring that the fuel tank has an alarm that will sound if a spill or leak is suspected. Also, ensure that the tank has double wall containment to reduce the likelihood that a spill will contaminate the surrounding area.

• Training. Train staff annually on the Spill Prevention program. Furthermore, the municipality may want to train employees on general hazard identification, how to identify warning signs of a spill, and who to report issues to.

• Signage. Consider posting signage near the tank that notifies individuals who to call in the event of a suspected incident.

For more information on this topic, please contact your CIRMA Risk Management Consultant. Visit CIRMA.org/Training & Education page for a list of current training programs and E-Learning Center programs.
EXECUTIVE SUMMARY
Approximately 67% of the State of Connecticut is covered by trees. Although it is easy to get lost in the beauty of Connecticut’s forests and parks, one should not forget the potential damages that trees can cause if not properly inspected and maintained. As with any exposure, a program should be put in place to identify and manage risk; a useful technique to assess our current risk management efforts is to review past experiences and determine if future efforts should be enhanced.

SCENARIO
On August 15, 2018, a large town owned tree with a large diameter limb broke and landed on a 2017 Mercedes AMG GT Coupe. The vehicle was parked in a designated parking spot that was clearly identified by paint. The weight of the limb crushed the vehicle’s roof, causing it to compress into the passenger compartment. The amounting damage caused the vehicle to be totaled.

The claimant notified the police department, who arrived on scene and completed a property damage report and provided the claimant with a police report number. The next business day, the claimant contacted the Town and requested that the Town pay for the repairs to his vehicle, since it was a town owned tree. The Town initially denied the request, stating that the resident was parking at his own risk. Unsatisfied with this answer, the claimant retained legal counsel and submitted a notice of intent to file suit.

INVESTIGATION AND DAMAGES
During discovery, it was determined that the Town had previously “tagged” the tree for removal; however, a significant time had elapsed between the identification of the tree and when the limb broke free and landed onto the vehicle. It was also discovered that the Town has a tree management policy, which states that: “…Once a tree has been identified as in need of removal, the town tree warden or his designee will ‘tag’ the tree. Once tagged, the tree will be prioritized for removal based on its condition and location, the tree shall be removed within 6 months of tagging…”

Further investigation revealed:
- The tree involved in the claim was prioritized as a level 2 – intermediate risk in a medium volume location.
- The tree tag was not present on the tree on the date of loss, indicating that it had fallen off sometime between initial tagging and date of loss.

LESSONS LEARNED
- Tree Trimming Policy. Consider ensuring that tree trimming policy language does not create a ministerial duty (such as stating that the Town “must” or “shall” act) and that it does not contain a ministerial time frame (such as “…within 6 months …).
- Update Tagging Policy based on CT General Statute 23-59. CT Gen. Statute 23-59 states, “…unless the condition of such tree, shrub or group of shrubs constitutes an immediate public hazard, the tree warden shall, at least ten days before such removal or pruning, post on each tree or shrub and may post on each group of shrubs a suitable notice stating the tree warden’s intention to remove or prune such tree, shrub or group of shrubs…” Essentially, there is no need to tag a tree unless the tree will be removed in at least 10 days.
- Prioritization and Classification. Consider adjusting the prioritization language and categorizations to reduce the likelihood of creating a ministerial duty and negligent act. Consider classifying trees as the following:
  - Consider tree removal; or
  - Continue to evaluate tree for removal on a regular basis.

For more information on this topic, please contact your CIRMA Risk Management Consultant. Visit CIRMA.org/Training & Education page for a list of current training programs and E-Learning Center programs.
EXECUTIVE SUMMARY

Municipalities work hard to keep their parks clean and vibrant. At times, the nature of the tasks needed to maintain these parks create hazardous conditions for their employees. This Lessons Learned illustrates a claim caused by an emerging trend in Connecticut, provides helpful tips to mitigate losses and highlights the importance of timely claim reporting.

SCENARIO

A Crew Leader for the Parks and Recreation department of a CIRMA Member town was tasked with emptying all of the Town’s parks trash receptacles. While picking up a trash bag, the employee placed his hand on the underside of the bag to lift it into the hopper. At this point, he felt a sharp pain on his finger. After inspecting his finger, the employee did not see any blood on his hand. Upon further inspection, he noticed a needle protruding from the bag. The employee decided to continue with his work and wait to report the incident to his supervisor until the end of the day.

After being notified, the Crew Leader’s supervisor immediately referred him to the Town’s Initial Care Provider (ICP) for an examination. The supervisor subsequently completed a First Report of Occupational Injury or Illness and submitted it to CIRMA. The employee went to the Town’s ICP where initial blood work was taken and subsequent appointments were made. The blood work revealed that the employee was exposed to Hepatitis B and C. Over the course of the next six months, the employee attended follow-up visits and underwent medical procedures in order to mitigate any long-term health complications. He did not have any work restrictions, however, needed to attend doctors’ appointments during work hours thus, negatively impacting productivity in the department and resulting in overtime expenses.

INVESTIGATION AND DAMAGES

The claim investigation process revealed that the employee made the decision to continue working instead of reporting the incident because there was no bleeding observed around the puncture wound. The Supervisor’s Accident Review Report revealed the following:

• The employee was wearing leather gloves instead of medical gloves. However, the supervisor determined that medical gloves would not have prevented the incident or mitigated the severity of the injury.

CIRMA is 100% responsible for this work-related incident. The total direct cost of this claim, including medical expenses, equaled $8,565. It is estimated that the indirect costs associated with this claim, including the lost time from work and overtime expenses required to backfill the position while the employee was receiving testing and treatment, could be as much as twice the direct costs for this claim. Therefore, the total cost of risk for this incident was approximately $25,500.

LESSONS LEARNED

• Reporting Incidents and Training. Continue to train staff on the protocol for reporting Workers’ Compensation claims. Employees who could be exposed to hazardous or infectious material, should also be trained on how to respond.

• Department Leadership. Promote a culture of accountability and accessibility to help employees feel comfortable reporting incidents/injuries and reinforce the importance of reporting them immediately. Timely claim reporting helps save members time and money and helps get injured employees the care they need.

• Know What to Do If An Employee Sustains a Sharps Injury. Employees who are injured should:
  – Allow the wound to gently bleed, ideally holding it under running water.
  – Wash the wound using running water and plenty of soap—do not scrub the wound.
  – Refrain from sucking the wound.
  – Dry the wound and cover it with a waterproof plaster or dressing.
  – Seek urgent medical advice as effective prophylaxis are available.
  – Report the injury right away.

For more information on this topic, please contact your CIRMA Risk Management Consultant or visit our Training & Education Resources at CIRMA.org.
On a cold January day, a municipal building sustained heavy smoke, fire and water damage when a fire started in the boiler/furnace room. The fire extended into the walls, adjacent hallway and offices. The fire alarm did not go off, and the fire was not discovered until an employee smelled smoke and went to investigate. Immediately thereafter, everyone was evacuated from the building. Several staff members were treated for minor smoke inhalation. There were several municipal residents in the building as well, one of whom twisted and sprained her ankle. The damage to the building was significant, which deemed it unsafe for occupancy. Since the municipality did not have a contingency location for business continuity, a rental office space was secured from a private landlord in a neighboring town.

The municipal building that sustained the fire damage was built during the 1970s with standard wood framing. The foundation was concrete. Since the building only contained a crawl space, it was located on the main level of the building. The heating unit was a 23-year-old gas-fired furnace. The extreme cold air temperature stressed the gas furnace system, causing it to continuously operate. The stress of the gas furnace created a spark in the furnace room, which ignited some paper and other combustible materials that had been placed in the room as storage. Other combustible materials and flammable cleaning chemicals stored in the room added fuel to the smaller fire, causing the fire gain momentum. Unfortunately, the fire alarm did not sound, and the fire was not discovered until an employee smelled smoke and went to investigate. This employee saw smoke coming from around the furnace room door and tried to it, but the door knob was too hot. At this time the employee ran back to the office and told co-workers what was observed. The employee then called 9-1-1 and requested that the local volunteer fire department respond to the building. Approximately two minutes after the 9-1-1 call, the fire department was dispatched to the municipal building for a “smoke condition investigation.” Concurrently, another employee pulled the fire alarm in the office. The fire alarm did not sound for the second time.

After several minutes elapsed, staff members communicated to building occupants via telephone, text messaging, email and personal contact that there was a fire and instructed the occupants to immediately evacuate the building. The entire building was evacuated and all persons were accounted for in a matter of 12 minutes prior to the fire department arriving to the scene. The fire department arrived, began firefighting operations, and had the fire under control after approximately 15 minutes. The fire was completely extinguished soon thereafter. Overhaul activities began and further extinguishing methods were used to temper any hot-spots that were found. Afterwards, the fire department cleared the scene and turned the building back over to the Town’s leadership. The Town’s building inspector closed the building indefinitely due to extensive fire damage and deemed the building unsafe to occupy. As a result, the Town was required to temporarily rent an office location in an adjacent town.

INVESTIGATION AND DAMAGES/INJURY

After investigation, the fire alarm system had several maintenance issues:

- The smoke detectors were dirty
- Heat detectors were disconnected in the furnace room to prevent false alarms
- There were several failed/broken relays within the system

In addition, the fire investigation revealed the following:

- The furnace room was overcrowded with combustible and flammable materials
- The Town failed to adhere appropriate spacing requirements.
- The furnace was stressed, which increased the temperature within the room.
- The increased stress on the furnace caused it to malfunction, which caused a spark to ignite and set fire to dry, combustible materials.
- The furnace had a cracked heat exchanger, which possibly created a significant increase in carbon monoxide levels within the room – which in large quantities can be flammable – found to be a contributing factor in the fire, according to the source and origin investigator.
- It was undetermined if a Carbon Monoxide (CO) detector was present. Employees interviewed about the incident deny hearing any type of alarm.
- The Town’s fire alarm contract was expired. There were no inspections of the fire alarm or notification equipment completed for at least for 18 months.
- The building sustained significant fire, smoke and water damage and was unusable.

Regarding third-party liability:

- Investigation revealed that the plaintiff most likely fell to the ground, or was accidently pushed, as employees and community members rushed to evacuate the building.
- The Town received a Notice of Intent to file suit from the plaintiff, alleging negligence, lack of maintenance, and negligence with fire alarm protocols, including failure to protect.
CIRMA LIABILITY ASSESSMENT

The ultimate reserves for this claim were well over $250,000, including a $30,000 settlement made to the injured plaintiff due to the Town’s negligence.

KEY RECOMMENDATION/ACTION ITEMS

The following key recommendations are proposed:

- **Maintain a proper contract with the fire alarm third-party vendors:** Proper contractual agreements ensure that the fire life safety systems within facilities are working properly.

- **Conduct regular reviews of equipment’s needs:** Work with the contracted third-party vendor to determine if current detection equipment is sufficient and appropriate for the environments they will be or currently are installed in.

- **Develop Emergency Incident Notification Protocol:** Establish a formalized process for notifying building occupants of emergencies in the event that the fire life safety system does not work properly. Determine the current capabilities within the facility regarding making a public address announcement.

- **Storage areas:** Conduct regular assessments of utility rooms and remove combustible and flammable materials.

- **Review and update the Business Continuity Plan:** Business continuity is an organization’s ability to ensure operations and core business functions are not severely impacted by a disaster or unplanned incident that can take critical systems offline. Such planning includes evaluating locations to temporarily house business critical functions, which will maintain the ability to provide service to your communities until repairs are made.

For more information on this topic, please contact your CIRMA Risk Management Consultant or visit our Training & Education Resources at CIRMA.org.
Municipality's network through two vectors: 1. Remote Desk Network Maintenance and Security. The M.S.P. would access the municipality's network through the M.S.P.'s RDP address into M.S.P.'s location. Further forensics showed that the initial malware entered the municipality's network through the M.S.P.'s RDP address into the municipality's network. Once the malware entered the network it was able to “write itself” as an administrator and access the back up.

It was determined that the malware entered the M.S.P. network through an email that contained a type of banking malware called Emotet. This was introduced into the M.S.P.'s network by one of their other clients who had downloaded a malicious file from a phishing email.

Because the backups were potentially exposed, this created a very low confidence by the forensic investigators in the ability to recover from backups. The most viable back up information was approximately nine month old. After consulting with counsel and the forensic investigators, it was determined that the ransom would need to be paid to recover the data. Contact was made with the threat actor and arrangements were made to pay the ransom. Once paid the threat actor provided several decryption keys, and after three (3) days the municipality had all four business critical servers and approximately 90% of the affected desktop units decrypted. The forensic investigation lasted another 4 weeks.

INVESTIGATION AND DAMAGES/INJURY

It was stated by the municipal leadership that they only thought to contact CIRMA to determine if this would be a covered loss; specifically, if the payment of the ransom would be covered by insurance. They were unaware of the importance of contacting local law enforcement until it was discussed with them by CIRMA. Once notified, CIRMA reported the incident to CTIC as per CIRMA’s cyber response protocols.

During the CIRMA investigation, it was determined that this municipality utilized a third party I.T. vendor as their Managing Service Provider (M.S.P.) The M.S.P. and municipality had a standard third party vendor agreement; however, the agreement was not favorable to the municipality and contained the below language:

“...the municipality is responsible for any and all costs, including legal fees, forensics, data restorations, and third party actions made against the municipality or “X” company for any data breach or cyber incident, including but not limited to data encryption, loss of encrypted data, damage to physical equipment, release of personally identifiable information (P.I.I.) and associated state required credit monitoring,... and holds “X” company harmless and waives its ability to seek payments for any of the acts above or any legal action resulting from the acts above... regardless of any fault by “X” that contributed to any of the above...”.

The M.S.P. was responsible for data management, regular network maintenance and security. The M.S.P. would access the municipality’s network through two vectors: 1. Remote Desk Top (RDP) access, or 2. Virtual Private Network (VPN). They would run diagnostics, push updates and manage the municipalities back up protocols. Back up servers where located at the M.S.P.’s location.

Further forensics showed that the initial malware entered the municipality’s network through the M.S.P.’s RDP address into the municipality’s network. Once the malware entered the network it was able to “write itself” as an administrator and access the back up.

It was determined that the malware entered the M.S.P. network through an email that contained a type of banking malware called Emotet. This was introduced into the M.S.P.’s network by one of their other clients who had downloaded a malicious file from a phishing email.

Because the backups were potentially exposed, this created a very low confidence by the forensic investigators in the ability to recover from backups. The most viable back up information was approximately nine month old. After consulting with counsel and the forensic investigators, it was determined that the ransom would need to be paid to recover the data. Contact was made with the threat actor and arrangements were made to pay the ransom. Once paid the threat actor provided several decryption keys, and after three (3) days the municipality had all four business critical servers and approximately 90% of the affected desktop units decrypted. The forensic investigators continued their scope of work to insure that no “Trojans” had been left on the municipality’s desktop devices or on premises servers. Forensic investigators also determined that there was no exfiltration of PII.

This municipality is a current Liability-Auto-Property (LAP) member, therefore the incident is a covered loss through CIRMA’s value-added cyber and data breach policy. The policy provides coverage for a data breach of sensitive information from intentional hacking of a computer system or through stolen information from lost or misplaced hardware, whether through the actions of an employee or an outsider.

CIRMA’s Cyber Insurance policy includes coverage for notification and ID/credit monitoring expenses as outlined by the State of Connecticut’s Public Act 15-142 concerning data breaches for Connecticut organizations. The policy also provides many other coverages such as:

- Forensic investigation
- Security & privacy liability
- Data recovery
Total cost of loss: $226,500

- CIRMA cyber coverage deductible $10,000
- Ransom $42,500
- Forensics & Restoration $135,000
- Privacy Counsel $34,000
- Misc. Legal Fees $5,000

LESSONS LEARNED

• **Utilize CIRMA’s contract review process when entering into third party MSP contacts.** As a best practice, CIRMA recommends that any contract your municipality enters into be reviewed by CIRMA’s Contract Review Team to identify contract language that may transfer risk to you unnecessarily and to ensure that your interests are protected. Many standard form contracts that are used today contain several waivers of subrogation throughout the contract that may limit CIRMA’s ability to hold responsible parties accountable for losses.

• **Identify how the MSP will be accessing your networks and establish protocols for this access.** This should be clearly defined with the contractual agreement.

• **Report all incidents immediately to CIRMA, local law enforcement, and CTIC.** Local law enforcement can access resources from the State of Connecticut Intelligence Center and Connecticut State Police Cyber Crimes unit. These special departments may have additional resources that can aid in the recovery of data.

• **Ensure back up are properly protected and separated from “live” or “production” environments.** It is a risk management best practice to separate data back up from the “live” network. This reduces the likelihood of the backup network being affected by any malicious software. Having a secure back up protocol will reduce the likelihood of paying any ransom. Language should be included in third party MSP agreements as to the municipality’s expectations of the process for securing and separating back up networks.

*For more information on this topic, please contact your CIRMA Risk Management Consultant. Visit our training schedule at CIRMA.org/Training & Education Programs page for a list of current training programs.*