

# PA FIRE POLICE

## *Law Governing Workers Comp for Fire Police*

**By Tony Riccardi - PA State Fire Academy Approved Fire Police Instructor**

We are beginning a new series of articles of interest and education to fire police officers on a monthly basis. Thanks to Tony Riccardi, in an effort to provide relevant information that hopefully will be helpful and encouraging.

For the first article, the topic chosen is the one topic that just does not seem to “get through” to many fire police, fire chiefs, and fire departments; that of ensuring that Workers’ Compensation will be provided when fire police officers perform those activities that are not considered emergency calls.

Some fire police captains have instituted protocols within their units and are following proper procedures to ensure their members are covered during these events. Others either choose not to believe it or, simply don’t know because they don’t attend training and have no way of knowing proper procedures to be followed.

And, of course, there are still others who listen to the so called “fire house lawyers” and are given wrong information or no information at all regarding the process to be followed to ensure fire police officers are covered under insurance during the performance of non-emergency activities.

For example, fire police are often requested to assist at parades, carnivals, funeral details for deceased members of a fire department, car shows, football games, basketball games, and other similar type activities. They will not be covered under Workers’ Compensation should an injury occur during the performance of these duties, as will be explained as you continue to read this article.

To understand the importance of following proper protocol, we must first understand the concept of Workers’ Compensation Insurance that is provided to all members of the emergency services by their respective municipalities.

The law requires that all municipalities must provide Workers’ Compensation to all their

employees, with penalties imposed for each day that such coverage is not provided. These penalties can be as high as \$2,000 per day of non-coverage.

The purpose of this insurance is a type of contract or agreement between the employee and the employer, in that the employee agrees not to sue the employer in the event of an injury, in return for coverage of all medical expenses and two-thirds of their wages in the event of an injury.

When a fire fighter and/or fire police officer is toned out for an emergency, Workers’ Compensation coverage is automatic. There is no dispute here whatsoever.

However, what many fire police officers do not realize, or don’t want to accept, is that this coverage is not provided for those activities not considered to be emergencies as already defined earlier in this article.

In many instances, in different counties in the Commonwealth, fire police receive “an all call” over their pager for assistance at some function being conducted by a fire department, a county, or an individual municipality.

In their desire to be helpful, fire police officers respond to these calls with no real knowledge as to whether or not they are covered under Workers’ Compensation. In the vast majority of instances, they are not.

Sometimes a fire chief or a fire police captain, may tell their fire police officers not to be concerned because they are covered, but, they may be providing invalid information.

In fire police classes, students are advised that the Fire Police Law, Title 35, addresses this issue and provides guidance as to proper procedures to be followed to ensure coverage will be provided in the event of an injury.

The law states: “Providing the request to perform these duties is made by the governing body of the city, borough, town, or township, or

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home rule municipality, in which the event will be conducted, or when accidents, floods or any other emergencies require performance of such traffic control and crowd control duties”.

Specifically, it means that the entity requesting the use of fire police officers, must request them by submitting a letter to the municipality whose fire police officers are being requested. When the municipality receives such a request, they generally forward it to the fire department. When the fire department advises that fire police will respond, the municipality then sends a letter back to the requesting agency, advising that their fire police will assist in the activity.

Now let’s explore what happens when this takes place. First, keep in mind, Workers’ Compensation automatically considers emergency responders to be employees of the municipality when they respond to an actual emergency, whether in their own community or assisting others during a mutual aid response.

Since the activities we referred to are non-emergencies, you are NOT considered an employee, therefore, common sense says you are not covered under Workers’ Compensation when you participate in this activity. If no injury occurs, you are home free, but, what if you do get injured?

When the municipality authorizes their fire police to participate in the non-emergency, what they actually did was to “extend your employee status” so you are now covered when you respond.

Another problem, which has recently come to light, is the captain who advises their members that he will get them “toned out” for the non-emergency activity to ensure they will be covered under Workers’ Compensation. Or, the requesting captain will inform the requested fire police that he will get them toned out for the non-emergency activity.

The problem here is, the fire police who respond to the call have no authority since they have not been authorized by their municipality to respond to this activity and will most certainly not be covered under Workers’ Compensation, and tragically, have no immunity protection should a problem occur.

Here again, misinformation, or false beliefs may result in the fire police officer having to pay their own medical bills and suffer loss of wages with no compensation because they did not follow proper procedures. (In addition, the call to 911 for fire police response to a non-emergency, can be considered a violation of the 911 law.)

The proper procedure is simple. The captain should contact the municipality each and every time you receive a call to respond to a non-emergency for their authorization. This can be done on an event by event basis, a yearly basis and even on a “forever basis” if the municipality agrees, so that the fire police officers need never be concerned as to whether or not they are insured. Keep in mind, however, the authorization must be in writing, since the courts have already determined “If it is not written, it did not occur.” The Basic Fire Police Manual contains samples of authorization agreements.

*Submitted by: Tony Riccardi, PA State Certified Instructor; Fire & Fire Police Instructor – 55 years, Wrote all seven fire police manuals Fire Marshal Lower Salford Township; Former Fire Chief and Police Chief*

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