



RISK★TEX

INTERAGENCY COMMUNICATION FROM THE STATE OFFICE of RISK MANAGEMENT ★ OCT. 2001



SORM TIP OF THE DAY

The Employer's First Report of Injury or Illness (TWCC-1S) form must be completed and submitted to SORM for any on-the-job injury that:

- Has more than one day of lost time;
- Is an occupational disease, with or without lost time or medical expenditures;
- Resulted in the death of the employee; or,
- Results in expenditures for medical treatment or service.

It is important that every box be completed on the form.

REMINDER

Fax a copy or mail the original to SORM. Please do not fax and mail a copy to SORM; only submit one copy, unless otherwise requested. Mail a copy to the claimant. Retain a copy for your file.

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What we can learn from Sept. 11, 2001

Terrorism, Texas, and the unknown

By Curt L. Krill

"On Sept. 11, 2001, reality took on a whole new meaning." Both as a nation and as individuals, we are faced with new and unfamiliar challenges. However, for risk managers and safety professionals, the tasks remain essentially the same. Plan for a disaster that we fervently hope will not occur, but be prepared to implement emergency procedures at a moment's notice.

Although an actual occurrence is statistically rare for any specific location, the threat of a natural or accidental, man-made disaster is always with us. Tornados, earthquakes, train wrecks, fires, and other calamities are not uncommon. Fortunately, the majority of us will never be faced with an event of this nature, but as professionals, we still make plans, implement procedures, and teach employees what to do if an emergency occurs.

Following the events of Sept. 11, 2001, disasters caused by acts of international terrorism must be considered as seriously as any other catastrophe accounted for in a proper emergency action plan. However, when developing procedures to address these risks, we have very little in the way of past experience on which to base an updated action plan.

The Federal Bureau of Investigation officially defines terrorism as: "...unlawful use of force or violence, committed by a group(s) of two or more individuals, against persons or property to intimidate or coerce a government, the civilian population, or any segment thereof, in furtherance of political or social objectives."

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Is it possible to plan for the unknown?

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SORM concentrates on insurance

Editor's Note: Sally Becker has joined the SORM staff to coordinate the State's insurance purchasing efforts. According to HB 1203, SORM will administer insurance services obtained by state agencies. Beginning in FY '03, SORM will purchase insurance coverage for a state agency subject to Chapter 501, and state agencies will not be allowed to purchase insurance coverage without the approval of the SORM board. Here's a brief introduction to one of SORM's newest additions.

After receiving a Bachelor of Arts degree in English, I began my insurance career with an independent insurance agency as a customer service representative. After managing a number of insurance agencies, I earned the Chartered Property and Casualty Underwriters (CPCU) designation in 1986 and the Associate in Risk Management (ARM) designation in 1992. For the last eight years, I have served the City of Dallas as the insurance/claims manager. During that time, I became responsible for managing a 10-person staff that implemented the city's loss control program and third-party liability claims. I was directly responsible for the management of the risk/insurance program that entailed:



Sally Becker

- Negotiating and maintaining insurance policies;
- Reviewing certificates for requirement compliance;
- Performing departmental training sessions;
- Consulting internal and external customers; and,
- Conducting risk evaluations for city special events.

My extensive background in the insurance industry and experience in governmental purchasing of insurance will immediately provide you with: consulting services in reviewing your insurance policies, preparation of your coverage specifications, and the analysis of responses to your bids and proposals. This consulting internal to SORM will hopefully develop into our ability to provide each of the State's independent agencies with valuable insurance and risk advice, ultimately providing the State with better coverage and loss prevention.

Risk Reward rules

House Bill 2976 by State Rep. Dawanna Dukes changes the way that the Legislature appropriates funds to cover the costs of workers' compensation claims. The legislation makes agencies more responsible for their costs and provides incentives to agencies to reduce losses and control claims costs. Rules submitted for publication can be viewed on SORM's website under "What's New."

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VISIT OUR WEBSITE AT WWW.SORM.STATE.TX.US

What to expect from a possible attack

(Continued from page 1)

Acts of domestic terrorism have occurred throughout recorded history. Acts of international terrorism, however, are relatively recent phenomena. During the Arab/Israeli war of 1967, the Soviet Union (through its network of satellite nations) trained Palestinian refugees to perform acts of terror against the Israeli civilian population. As a result of these actions, a new type of warfare was born. Small nations or militant groups learned that they could wage war (usually undeclared) against larger nations by means of violent actions against their symbols, identities, and civilians. The intent is to demoralize a population and obtain concessions that could never be won on a true battlefield.

A terrorist war is now being waged against the United States. Serious consideration must be given to the many variables of this threat. How does this affect us? What changes should we expect or implement in our personal and professional lives? What can we do to protect our nation and ourselves? What are you and your agency doing as a result of the events of Sept. 11?

Here in Texas, as in all parts of the country, we do not wish to live in fear or relinquish the everyday freedoms that are the basis of our liberty. Nevertheless, we should be prepared for increased security in places we have never noticed security before. We should not object when access to a formerly open area is now limited and scrutinized. We should be expected to elevate our personal levels of awareness, at work and in public.

When seeking information on what to expect from potential terrorist activity, there appears to be a wide range of opinions and scenarios available for consideration. The most commonly mentioned threats

Biological and chemical weapons could be used to poison food sources, water supplies, or the civilian population.

involve weapons of mass destruction in the form of chemical or biological agents, as well as the potential use of nuclear materials. Some other possibilities involve the disruption of utility services, attacks on our transportation infrastructure, introducing viruses into computer networks, poisoning of food supplies, or the destruction of national symbols.

The weapon of mass destruction considered the most realistic and worrisome threat to the civilian population is the use of a biological agent. Authorities are particularly concerned about anthrax and smallpox, two biological toxins that could be dispersed through the air on a large scale. Both are highly lethal but have one significant difference, communicability. Anthrax is not a communicable agent, meaning an individual infected with this bacteria cannot pass it along to another person. Conversely, smallpox can be passed from person to person with relative ease. Fortunately, the only two remaining samples of the smallpox virus known to exist are in disease research centers located in the U.S. and Russia. The uncertainty of security following upheavals in the former Soviet Union, however, cast doubts on whether this or other biological weapons have been maintained under strict control. There are believed to be at least 17 nations that currently have biological weapons programs, many of which include anthrax in their inventories.

A biological attack would be classified as a covert occurrence due to the delays between a release and the onset of illness (i.e., the incubation

period). The use of chemical weapons is classified as an overt incident because the adverse effects would likely be immediate and obvious. Biological and chemical weapons could be used to poison food sources (livestock or crops), water supplies, or the civilian population. Again, the intent is to terrorize the population, thus creating uncertainty and unrest.

If a biological agent is released in a populated area, its effect would not be immediately apparent. The first victims would begin appearing in local treatment facilities where our early warning defense would depend upon the primary medical provider's ability to recognize and report unusual illnesses to a national response center. Experts feel there will only be a short window of opportunity between the time initial cases are identified and a second, much larger wave of infected individuals arises. Large-scale outbreaks would require rapid procurement and distribution of treatment drugs and vaccines in massive quantities. A mobile society such as ours, capable of traveling anywhere in the world within a matter of hours, makes the communicable disease threat particularly troubling. One unknowingly infected individual could easily travel from the contamination site during their incubation period, infecting untold numbers of others along the way.

Debate continues about the feasibility of terrorists using a nuclear weapon. However, variations on this possibility may include the use of low-grade radioactive materials attached to conventional explosives with the intent to spread contamination. Another danger may be a terrorist attack upon a nuclear reactor complex. As a reference, the explosion and resulting radioactive con-

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Submit wage data on TWCC-3

By Carolyn Finley

The Texas Workers' Compensation Commission provides a form for the wage statement called the TWCC-3. This form provides the insurance carrier with an injured employee's wages for the 13-week period prior to the injury date. The carrier uses this wage information to determine an **average** weekly wage. Once the **average** weekly wage is determined, the carrier is able to establish indemnity benefit rates.

The TWCC-3 is a four-page form containing the injured worker's information, dates of the 13 weeks prior to the injury date, wages earned, insurance paid, and any other benefits paid. Most state agencies pay their employees once a month. With this in mind, the wages for the last four or five weeks can be deter-

You can access the TWCC-3 form and instructions on the SORM website at www.sorm.state.tx.us/Training/Handbook1200/Forms.htm

mined by using the employee's regular salary. For example, an employee is injured on 9/21/01. The wages needed are from 6/22/01 - 9/20/01. The employee will not be paid for 9/1/01 - 9/20/01 until 10/1/01. For those weeks, the agency needs to use the employee's regular wages during that period. This will give the carrier a good **average** weekly wage to use for indemnity benefit rates.

When agencies send in the Employer's First Report of Injury (TWCC-1S) form, it is ideal that the

TWCC-3 be sent at the very same time (the beginning of the claim). This will help avoid underpayment or overpayment of indemnity benefits. Timely payment to the injured employee is very important to the agency and the carrier. This will help avoid Compliance and Practice violations, thus keeping the costs down for the agency and the carrier.

The important factor here is – the wages on the TWCC-3 are necessary for the carrier to determine the **average** weekly wage. It does take a few minutes to fill out, but it is well worth the time. Any questions you may have on filling out this form can be directed to the Texas Workers' Compensation Commission - Customer Relations & Customer Services at (512) 804-4100 or (512) 804-4636, FAX: (512) 804-4101.

Cost containment vendor audits files

SORM's medical cost containment vendor audited more than 180,000 medical bills during Fiscal Year 2001. These bills were reviewed for medical necessity, relatedness, and compliance with medical fee guidelines. The agency's directive to the cost containment vendor was to utilize every possible measure to ensure that medical bills for injured state workers were thoroughly evaluated for these factors. SORM augmented the medical cost containment vendor's services with its

own medical bill quality control staff.

On July 15, 2000, the Texas Workers' Compensation Commission (TWCC) rules were updated to include some extensive changes for medical bill processing. These changes should positively impact future savings to the claims fund. The changes place an added responsibility on medical providers to present a more structured billing to the carrier for payment. This will reinforce the carrier's ability to accurately assess the

medical necessity, relatedness, and reasonableness of the services provided.

TWCC is currently in the process of updating the Medical Fee Guideline. Proposed rules for this guideline can be accessed through TWCC's website (www.twcc.state.tx.us). TWCC has also proposed new pre-authorization rules. SORM staff has stringently reviewed all proposed rules and has submitted comments.

How can you protect your employees?

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tamination caused by the Chernobyl accident in the Soviet Union are estimated to have caused up to 30,000 fatalities.

Vigilance is the key. Risk managers and safety professionals must monitor news reports and Civil Defense Broadcasts (decisions should be made based upon events and official guidance as it is provided to the public). If a chemical or biological release threatens your place of employment, should you send people home or keep them inside the buildings? A possible place to seek information for handling airborne, contaminant occurrences might be chemical emergency contingency plans related to petrochemical accidents or train wrecks. These are not perfect examples, but as stated earlier, there is little historical data available to write a plan that addresses the unknown.

Think proactively: how can you best protect your employees and property? If the chemical or biological contaminant has been identified and is approaching your area, it may be best to evacuate away from its expected path. If the agents have already been detected in your area and it would be immediately dangerous to venture outside, it would be best to initiate a "shelter-in-place" plan. In addition, think in terms of teaching your personnel so they can share the elements of these plans with their families and prepare home disaster procedures.

With consideration for the characteristics of shelter-in-place (sealing the room or building you occupy and waiting for the crisis to pass), it would be best to develop a checklist of items necessary to implement this procedure. These items would include, but are not exclusively limited to, the following:

- Supply of bottled water;

A template for a Terrorist Incident Response Plan can be found on the Governor's Division of the Emergency Management website at www.txdps.state.tx.us/dem/documents.htm#annexv.

- Battery-operated radio and spare batteries;
- Flashlight(s) and spare batteries;
- First-aid kit with scissors;
- Duct tape, plastic sheeting, and towels (for sealing windows and doors); and,
- Non-perishable food.

This basic list would be applicable to a shelter-in-place at home or the workplace.

Existing emergency plans that address fires, explosions, bomb threats, workplace violence, or business recovery are also applicable to terrorism situations. If your agency has not already done so, formation of a crisis management team should be given serious consideration. Much like an extension of the business recovery plan, a crisis management team would concern itself with the aftermath of a devastating and tragic event. At a minimum, this team would be composed of top managers, risk managers, human resources, legal counsel, security, public relations, and (very importantly) an in-house or outside psychologist. In almost all crisis situations, employees are traumatized by the events they have witnessed and/or survived. For these employees, the mental healing process must be attended to without delay for recovery to occur. People are your key resource and should be attended to first, whether their injuries are physical or mental.

By now we are all wondering if Texas has a plan for dealing with acts of terrorism and its aftermath.

On the Governor's Division of Emergency Management website, there is a template for a Terrorist Incident Response Plan, found in the annexes under Annex V (that's a V, as in victory). This document was designed for use by municipalities to guide and formalize their local terrorism response efforts. State agencies interested in viewing this outline can find it at www.txdps.state.tx.us/dem/documents.htm#annexv.

SORM will be developing guidelines intended to assist state agencies with their contingency plan updates. In the meantime, state risk managers should be proactive in analyzing potential threats and assessing how to appropriately respond to them. Utilizing the Internet is an excellent method to search for and compile data. Enter key words and phrases (e.g., terrorism, shelter-in-place, or FEMA) in the search engine and investigate the sites identified. Take advantage of this tool and learn everything you can about these important topics. Obviously, this has become a priority issue of intense interest.

Unfortunately, Texas, like much of the country, was unprepared for the events we witnessed on that terrible Tuesday morning. As a result, questions abound. Where might the enemy strike next and in what way? Could a similar event occur in Texas? Will we experience it ourselves? Is it possible to plan for the unknown?

The best course of action is to do what risk managers and safety professionals always do, remain calm and prepare. In fact, even though we are neither law enforcement officers nor intelligence experts, we can still be watchful and aware. Observe your neighborhoods and note unusual activities. Talk with your co-workers and compare observations. Note

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Subrogation totals increase

By Jonathan Bow

Who wants to be a millionaire? Neither ABC nor Regis has anything on our Subrogation section after the benchmark year it had for fiscal 2001. For the first time ever, total settlement agreements in a single year topped the million-dollar mark and exceeded it by more than \$37,800 – an increase of 35.4 percent over fiscal 1999, and a 31.7 percent increase over the average reimbursements for the past five years.

So what happened to subrogation that brought in all that money? Well, for starters, there's a new sheriff in town. You may recall that a couple of years ago, you began hearing the name Dale Yarbrough in connection with subrogation cases. You may have even had the opportunity to attend one of his frequent outreach training programs. Dale has an eclectic background spanning both the public and private sectors, and is constantly looking for new opportunities (and theories of liability) to recover losses from third parties, while effectively managing cases through private counsel and the OAG's Tort Litigation section.

Dale is kinda quiet personally, but

he's had a dramatic impact on SORM's collection fire power. Dale's first official act in subrogation was a complete make-over in the way cases are handled. The filing and intake processes were completely revamped. Next, Dale raised expectations, demanding that SORM get first-dollar recovery from any settlement. Gone are the days where plaintiff attorneys and claimants take all the money and leave SORM with the bills.

"Subrogation now speaks fluent workers' comp legalese and plaintiff's attorneys are learning that if 'SORM ain't happy, ain't nobody gonna be happy' when settlement time comes," Dale says.

Dale's next step was to get subrogation involved and working with everyone in the agency and, in turn, to get everyone in the agency to support the efforts of subrogation. Dale says, "Our adjusters are relentless in their pursuit of possible subrogation claims. Fund Accounting is steadfast with deposit of settlement checks. Medical Audit provides immeasurable assistance with medical issues, and Risk Management brings accident reconstruction into focus. From

our 'good-looking' receptionists to our 'tireless' mail room staff, everyone makes subrogation what it is."

Dale has also enlisted strong allies in SORM's subrogation efforts, including staff in employing agencies and the Texas Attorney General. Dale actively coordinates with agency staff to identify subrogation opportunities and to provide information to plaintiff's attorneys who are recovering money for the State. In addition, the OAG's Tort Litigation division is more involved than ever before in working subrogation issues, and the numbers show it. Shannon Simmons, an assistant attorney general, in particular has been a staunch advocate for SORM in collecting money owed by third-party tortfeasors.

Want to know what's in store for next year? Well, Dale hasn't committed to a firm number of commas in next year's number yet, but he is trying to negotiate for his bonus to be set as a percentage of collections; so, we suspect that the target he has in mind is a lofty one. For Dale, it seems he always has his eye on the next record he wants to break.

SORM wants to know your comments

By Robin Cline

SORM is continuing its efforts to meet customer needs and determine customer satisfaction with services provided.

As a result, state agency representatives in attendance at dispute resolution conferences and hearings will soon be handed prepaid-postage comment cards from SORM or Office of the Attorney General representatives at the

completion of the conference or hearing.

SORM wants to know how our client agencies feel they were represented at the meeting. Comment card questions include:

- Did the representative contact the agency prior to the set date?
- Despite the outcome of the conference or hearing, did the agency feel like they received

good representation?

In addition, the cards will also contain ample space for written comments.

Only those agencies sending representatives to the meetings will receive the card. So, if you receive one of these comment cards, please help SORM improve our services by completing the card and dropping it into the mailbox.

SORM offers new training courses

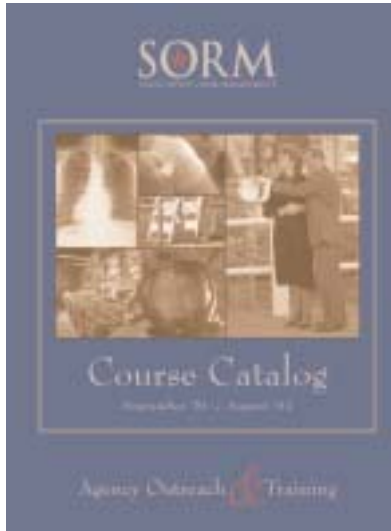
SORM started Fiscal Year 2002 offering several new training classes to complement our growing list of safety, health, risk management, and workers' compensation courses.

More than 50 class dates are scheduled during the fiscal year. The dates are included with the course descriptions in the Course Catalog and on the SORM website.

Some of the new courses offered by SORM trainers are Contingency Planning, Ergonomic Assessment Training, Indoor Environmental Hazards, and Supervisor Safety Course.

Several courses offered during the year are train-the-trainer courses. Our goal is to persuade and motivate you to deliver more effective training for your agency. The train-the-trainer courses will help you enliven your delivery by complementing your program with slide show presentations and helping you phrase messages to motivate listeners.

In addition to these courses, all our classes can be customized for your agency. Our team can work



with you to create specialized training that incorporates pictures of your facilities, agency policies and procedures, or whatever will work best in your agency to keep your workforce well-trained and working safely. Many dates have been left open throughout the fiscal year for these agency-specific trainings. To request this type of training, contact the Agency Outreach & Training staff at (512) 936-1564.

Make sure employees know what to do in an emergency

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suspicious packages or vehicles parked near your buildings or on your property. Assist your security personnel by alerting them to strangers. Watch your utility bills for unusual telephone calls, computer activity, or excessive charges. Call your local law enforcement office and discuss your concerns. This war was declared on all of us and we must all do our part to combat the threat in every way we can.

Finally, it is important to emphasize the one issue that can never be

overdone. Train your employees and conduct practice drills. Make sure each individual knows what to do in an emergency. The victims of the attack on the World Trade Center towers and the Pentagon did not go to work on Sept. 11 expecting to be faced with life and death decisions. Many weren't allowed the opportunity to make a decision, but others had precious few minutes to either evacuate or wait for an "authority" figure to tell them what to do. Unfortunately, a moment's indecision cost many people their lives.

Training class information, including the Course Catalog available for downloading, can be found on SORM's website at www.sorm.state.tx.us/Training.htm.

The Course Catalog also includes a listing of monthly topics of interest that can be incorporated in your monthly safety themes. In addition, the Course Catalog provides a listing of CD-ROM titles available for agencies to check out for computer-based training.

UPCOMING EVENTS

The Agency Outreach & Training staff has compiled a list of workers' compensation and safety and health events that may be of interest to state agencies.

The listing can be found on the SORM website at www.sorm.state.tx.us/Training/Courses/Events02.htm.

CPR/AED TRAINING

Many state agencies are installing Automated External Defibrillators (AED) in their offices. SORM's CPR classes include a segment on AEDs, including when it's appropriate to use the potentially life-saving device.

A defibrillator is a medical device that monitors and displays the electrical activity of the heart. It is capable of providing an electrical shock that may enable a person's heart to return to a normal rhythm, thus preventing death.

SORM's trainers can come to your agency to teach this class. The AED training is combined with the CPR class. First Aid training can also be included in the course. Call (512) 936-1564 for information.

Address Correction Requested

Don't forget to fill out the SORM 200 report

It's that time of year again – time for the SORM 200 report. We've already received some of your responses, but we know that most of you are currently diligently working away on it. Just a reminder though – the SORM 200 is due to Jennifer Whitwell by Oct. 30, 2001.

If you have any questions regarding the content of the report, please contact Gentry Woodard at (512) 936-1452 or gentry.woodard@oag.state.tx.us.

If you have any questions regarding the transmission of

this report or if you need another copy of the instructions or templates, please contact Jennifer Whitwell at (512) 936-1574 or jennifer.whitwell@oag.state.tx.us.

For further information, you may visit our website at www.sorm.state.tx.us, where you'll find our slideshow presentations of the Sept. 18 orientation under the column titled "What's New." Please do not hesitate to contact us if you are in need of any assistance with this report.

Upcoming training

First Aid/Adult CPR/AED Training ::
Nov. 8; Lorenzo de Zavala State Archives & Library, Rm. 314, Austin; 8 a.m.-4 p.m.

Training for Claims Coordinators – Level 1 :: Nov. 13; SORM conference room, Austin; 8:30 a.m.-4 p.m.

Training for New Risk Managers ::
Nov. 14; SORM conference room, Austin; 8:30 a.m.-4 p.m.

Training for Claims Coordinators – Level 2 :: Nov. 15; Brown-Heatly Bldg., Rms. 1420/1430, Austin; 8:30 a.m.-4 p.m.

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