

## *Frequently Asked Questions*

We have endeavored to answer the most frequently asked insurance questions. These are guidelines, generalizations not to be construed as coverage and/or guarantees. When you file a claim against Clark County or its employees for any reason, we attempt to settle the claim as quickly as possible. The more thorough and complete the information in your Claim Notice, the more quickly we can make a decision. Evidence such as photos, license plate numbers, witness statements, estimates of damage, diagrams, etc., is important to decide a claim. Without good evidence, it can take weeks, months, maybe even years to decide, if at all. In the State of Washington, generally, you have three years from the date of loss to file a claim.

Some claims by their vary nature are NOT easy to dispose of by a simple claim application. These are claims where it is not a simple matter of liability or law, but a jury, mediator, or arbitrator needs to decide. Many times these are civil rights claims. Therefore, if you have a property claim with good evidence, it is likely it will be disposed of quickly. If it is a civil rights or injury claim with no proof or evidence, it may be difficult to settle.

### ***Liability Claim: Auto***

**How do you make a liability decision with a car crash?** We use the Washington State Rule of the Road. This falls under the Revised Code of Washington (RCW), RCW 46.61. Washington is a pure comparative State; this means each party may be attributed from 0, 1, 5 or as much as 100% in any increment.

**What if I, the claimant, disagree with the County's liability decision?** There are several avenues. You can use your own insurer and after taking care of your claim, they will go against the County on your behalf. You can go to small claims court subject to its rules and maximums. You can hire an attorney to represent you. In a property loss only however, an Attorney may want to work hourly instead of on a contingency basis.

Regardless, it is important for you to mitigate your losses. If you are accruing storage charges or, damage on your property increases while a dispute lingers, you may be held accountable for part or all of the additional damage or charges.

**Does the County owe me full coverage on a rental while my car is being repaired?** No. If you did not have full coverage before an accident, the County will not improve your position by paying for coverage you do not normally have. Of course, you can purchase the damage waiver from the rental company.

**Do I get an SUV/luxury or Pickup rental if that is what I had before the loss?** We will endeavor to help you with like transportation; however, occasionally a like vehicle may not be available. We may choose to pay you the going rental rate in cash instead. We use the least expensive rate available at the time.

**What if my car is totaled due the County's fault, do I get a new car or one better than mine, or does the County buy one for me just like mine?** Settlement of your automobile is on an Actual Cash Value (ACV) basis. This means a like vehicle approximately the same mileage, condition, and options selling in the local market. We settle (to the lien or title holder) based on ACV, by check, and we do not buy cars for claimants.

**What about the hours I missed from work to settle the claim, or look for another car, or get and/or deliver the rental or personal property I had damaged in the car?** Many of these items are purely negotiable and subject to the reasonableness and proof.

**I had just tuned my car, or put new tires and belts on it and a new stereo, can I get them out, or the full price back for it?** Typically, no, you will get full value for a used car, with good maintenance records and condition.

**Can I keep my salvage?** Yes, this is a negotiable amount.

**Can I refuse used parts to be put on my car?** Yes and no, typically, anything that would wear out or be a safety issue, such as tires or brakes, used will never be allowed. If it is a fender from another identical vehicle, simply repainted, then yes. This is called like kind and quality (LKQ). An LKQ part in fact is an identical part from the Original Equipment Manufacturer, (OEM).

**Why is the adjuster taking off some value for new paint or tires?** This is called betterment or depreciation. It can be argued that putting new tires on a car that had balled tires, puts the car owner in a better position than before the loss. This is also for the paint, hoses, etc. However, this is a negotiable item and should be discussed with your adjuster.

**What is a "Constructive Total Loss"?** This is when the repairs, plus rental, plus towing and storage, plus salvage all combine to exceed the ACV. At that point, the adjuster will negotiate with the claimant to decide on how to settle the case.

**What happens if my car is a recovered theft, do I have to pay the Tow Bill?** Yes, however, your comprehensive coverage will reimburse you for these costs.

**What happens if a Golf Ball hits my windshield from one the County Golf Courses?** You must immediately return and find the tortfeasor, the person who hit the ball. Generally, the County is not liable for these losses.

### ***Liability Claim: Employee Vehicle***

**When I am using my personal vehicle on County Business and I get in a wreck, what's covered?** Insurance follows the vehicle. Your Comprehensive or Collision will be the only coverage to repair your car. You pay the deductible. This is

why the County will pay you mileage while you are driving your vehicle, when it is approved. Otherwise, you should drive a County vehicle.

If you are injured, you are covered by Worker's Compensation. This is not true if you are driving to and from your place of work. But if you are called out to a special location, not your normal place of work, you may be. Your Personal Injury Protection (PIP) is secondary to any other collectible insurance. If you have a passenger in your personal vehicle, the same rules apply.

Underinsured or uninsured motorist coverage is subject to your policy language as are all the above noted personal line coverages. Check with your personal lines agent as to the applicability of any coverage.

### ***Liability Claim: Personal Property***

**The County did damage to my personal property, will it be settled at the current replacement cost?** No, replacement cost is a "first party" coverage that comes from your insurer, not a third party such as the County. Additionally, there may be some depreciation taken, this is the used-up portion of the item. Every item has a certain life span; the used-up portion of that life span is what will be deducted.

**I have just been released from jail, I am missing personal property items I dropped off, will the County replace these?** You must be certain, that the items you drop off are noted as your property and then inventory them when you get them back. ONLY then can you actually prove what should have been returned. As you read at the beginning, this makes it more difficult to prove the loss.

### ***Liability Claim: Real Property***

**Real Property is land and buildings.** A loss may consist of loss-of-use, actual physical damage, diminished value or conversion. These occur for various reasons and are handled on a case-by-case basis.

**A tree blew over on my house or property from County land, is the County at fault?** Usually no, this is an act of God and weather initiated losses are out of the Counties control.

**After new road construction, my house is flooded from rains now where it wasn't before, is this the County's fault?** This loss will take additional research; no two cases are the same?

**The County Land Use Laws have caused me not to be able to realize the maximum amount I might receive from the sale of my property, can I collect?** This may be a Jury question. The County has the right and responsibility to manage growth, each one of these questions is an individual circumstance and must be dealt with in that way.

***Liability Claim: Civil Rights***

**I feel my civil rights have been violated; can I collect in monetary damages?** Monetary damages can be awarded if in fact your rights have been violated. The liability decision is often difficult to decide and very dependent upon case law and usually Juries need to decide.

***Liability Claim: Personal Injury***

**I was arrested and I feel the Sheriff Deputies used too much force, should I file a claim and will I get money?** Of course, you may file a claim, but the amount of force used is typically a question for a Jury. The Jury will take in to account the “totality of the situation.” This framework attempts to account for all things involved in the arrest. There are some legal immunities the Police are given by virtue of their necessity to effect an arrest. All of these factors are considered in light of other closely aligned and previously decided court cases.

**I fell on school grounds or tripped on a sidewalk owned by the County can I receive money for my injury?** Typically, you must file a claim and the County must be negligent. Additionally, we must have had prior knowledge of the condition and not do anything about it. We will consider many factors such as: was the condition open and obvious, were you a public invitee, were you using a park or play ground equipment for free, etc. As you can see, the investigation includes many facets that can go either way.

***Liability Claim: Employee Action***

**As a County Employee, and I am sued or someone blames me for their loss, will I be covered for the costs of defense or indemnity?** We will defend you, hold you harmless, and pay whatever costs are involved. If you refuse to cooperate or attempt to cover or suppress evidence, however, you risk and may jeopardize either a defense, indemnity or both.

**If I receive a Summons and Complaint, what do I do?** You immediately take it to either the Prosecuting Attorney’s Office or Risk Management.

**What happens if I am in a car wreck, on County business, in my personal automobile, I am negligent, and the loss turns out to be more than my underlying liability coverage, will the County cover the additional loss above my coverage?** This is on a case-by-case basis, typically yes. As long as you were within the course and scope of your business

Because of this, it is recommended that if you use your vehicle for County business and you get paid mileage, you should have at least 100/300/50 coverage with a \$1,000,000 umbrella policy. Some personal lines insurers require larger underlying split limits such as 250/500/100. These numbers are Bodily Injury per person (250K), then injury per aggregate loss (500) and property per loss (100K).

We also recommend you have matching uninsured and underinsured motorist limits to match.

**What happens if I have County property stolen from a County vehicle?** You must report the loss to the police department of the local jurisdiction, then your supervisor. The loss likely is within the department's \$50,000 actual cash value (ACV) deductible.

**What happens if I have County property stolen from my personal automobile?** This depends. If you have property with permission and to benefit of the County, then it will be covered under the department's property deductible. If it is for your convenience and not with specified permission, the property should be filed against your personal property policy of your Homeowners or renters coverage. This is subject to your sub limit of off sight borrowed or work property and deductible.

**What happens if I damage my personal property while I am using it at my job?** Since it is to the benefit of the County, it is between your supervisor, your department head and you. It is subject to the department's \$50,000 deductible.