

CIVIL AND CRIMINAL LIABILITY
OF ROAD COMMISSION EMPLOYEES

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April 1979

Prepared for

Oakland County Road Commission

by

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**THE UNIVERSITY OF MICHIGAN
HIGHWAY SAFETY RESEARCH INSTITUTE**

Technical Report Documentation Page

1. Report No. UM-HSRI-79-18	2. Government Accession No.	3. Recipient's Catalog No.	
4. Title and Subtitle Civil and Criminal Liability of Road Commission Employees		5. Report Date April 1979	6. Performing Organization Code
7. Author(s) Hal O. Carroll		8. Performing Organization Report No. UM-HSRI-79-18	
9. Performing Organization Name and Address Policy Analysis Division Highway Safety Research Institute The University of Michigan Ann Arbor, Michigan 48109		10. Work Unit No.	11. Contract or Grant No. N-2
12. Sponsoring Agency Name and Address Oakland County Road Commission 31001 Lahser Road Birmingham, Michigan 48010		13. Type of Report and Period Covered Special Report	
15. Supplementary Notes None		14. Sponsoring Agency Code	
16. Abstract <p>County road commission employees engage in many sorts of activity that could result in their being sued civilly (for money damages) or prosecuted criminally. This report discusses the basis of both criminal and civil liability, the differences between them, the types of activity likely to give rise to a lawsuit or a prosecution, and the likelihood of liability. The report then discusses whether a road commission is required or permitted to provide a defense or indemnity (reimbursement) to its employees who are sued or prosecuted, considers alternative approaches to providing a defense or indemnity, and suggests the most appropriate approach.</p>			
17. Key Words Road Commissions, Highway Departments, Employees, Liability, Indemnity-Defense		18. Distribution Statement	
19. Security Classif. (of this report) Unclassified	20. Security Classif. (of this page) Unclassified	21. No. of Pages 19	22. Price

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CIVIL AND CRIMINAL LIABILITY OF ROAD COMMISSION EMPLOYEES

Introduction

This report discusses the potential for personal liability, civil and criminal, of road commission employees in Michigan. Its special concern is employees, such as engineers, who exercise professional judgment in planning or designing highways or superintending road maintenance or construction. The principles discussed in this paper, however, apply to all employees.

The report begins with a discussion of the concept of civil liability for negligence and how it applies in the context of road commission activity. It then discusses the possibility of criminal liability for employees, identifying the types of criminal liability most likely to arise and the consequences and likelihood of conviction. Finally, it considers whether a road commission is permitted or required to provide a legal defense or indemnity (reimbursement) to an employee who is found civilly or criminally liable.

Civil Liability--Negligence

Any civil lawsuit against a road commission employee will likely be based on negligence. Negligence exists where someone owes a duty to use reasonable care to avoid causing injury to another, and breaches that duty by failing to use reasonable care, the result being injury or damage to a person or to property. The duty to use reasonable care is the basis of negligence liability; it arises whenever it is foreseeable that one's conduct--an action or a failure to act--poses an unreasonable risk of harm. The protection provided by this duty extends to all who are within the scope of the risk. In the case of road commission employees, any person who is injured because of an employee's negligence is entitled to sue the employee for money damages.

This definition of negligence is very general and relies heavily on the concept of "reasonableness." The law does not provide a more specific definition. Rather, it leaves it to the jury to apply the general principles to the specific facts of the case and decide whether the defendant (the person being sued) was in fact negligent. If the jury does find that the defendant was negligent, it also decides the amount of the "damages" the plaintiff is entitled to recover from the defendant. A defendant who is found liable for negligence in a civil case is required to pay damages; a civil case does not lead to punishment by a fine or a jail term, nor does it require that the defendant's license (whether professional or vehicle operator) be suspended or revoked.

Because the definition of negligence is broad, it includes a broad range of conduct. In the case of a road commission employee, it could include many activities. For example, a construction site might be left unguarded and children might play there and be injured, or a passerby might be injured by an employee's negligent operation of equipment. Negligence might also be found in the operation of a motor vehicle or in the design, construction, and maintenance of the highways. These last two areas of possible liability will be discussed in more detail, but the principles of negligence on which they are based apply to road commission activities in general.

Negligence in the operation of a motor vehicle is not unique to road commission employees and therefore presents no special problems in the area of civil liability. Whether certain driving is negligent or not does not depend on the fact that the driver works for a road commission. In addition, road commissions are, by statute, made liable for damages caused by the negligent operation of motor vehicles (1). Therefore, it is not likely that an employee sued for negligent operation of a motor vehicle would stand alone; the commission will usually be sued as well.

It is also possible for a commission employee to be sued for negligence in the design, construction, or maintenance of a highway. This type of liability is similar to the liability of the commission itself, though it is not the same. Road commissions are made responsible by statute for providing "reasonably safe" roads (2). This duty is more specific than the employee's general duty of reasonable care. The employee's duty relates to his actions, while the commission's duty is phrased in terms of a result--reasonably safe roads. Therefore, while the commission can be liable for a condition, the employee is only responsible for his own actions.

Because the road commission's duty is different from its employee's duty, it may often happen that a road will be unsafe but that no individual employee will have been negligent. In these situations, only the commission will be liable. On the other hand, when an employee has been negligent, his liability is based on the fact that his negligence created an unreasonable risk to the motorist. When this happens, the road is likely to be unsafe, so that the commission will also be liable for breach of its statutory duty. Therefore, it is likely that the road commission will be sued whenever the employee is sued. The employee will seldom be sued alone.

Since an employee is liable only for his own negligent acts, supervisory personnel will not necessarily be liable for the negligence of the employees under their supervision. The clearest example of this is the case where a claim is brought against the individual members of a board of county road commissioners, or against the state highway commissioner. The rule is that where there is no active personal negligence on the part of the board members or the highway commissioner, they are not personally liable (3). The same rule applies to supervisors in general. The power to hire and fire subordinates does not make the supervisor responsible for their actions (4). It is only when his own acts or omissions amount to "active, personal negligence" that an employee, whether a supervisor or not, is liable (5). If a supervisor is actively and personally negligent in carrying out his supervision, than he can be liable, but his liability does not arise from his position; it arises from his actions.

The question of employee liability was discussed in the recent case Hunter v. Board of County Road Commissioners (6). In this case the plaintiff was injured when her car ran off the road. She sued the commission and also the county engineer and his assistant. The Michigan Court of Appeals held that the county engineers in this case could not be sued individually. However, the court did not make clear the factual basis for its decision. If the engineers were acting only in a supervisory capacity and if the plaintiff did not claim that they were personally negligent in doing some act, then the Hunter decision is merely a restatement of the rule described above. However, the Hunter decision can be read as saying that the engineers would not be liable, even if they were negligent in designing or supervising construction of the road, as long as they were acting in the scope of their authority. If the court's opinion says this, then it marks a substantial departure from the previous rule, and one which would be difficult to reconcile with earlier decisions of the Michigan Supreme Court. If the Hunter case is appealed, the Michigan Supreme Court will clarify its meaning. At this point, however, it cannot be relied upon as establishing any greater protections for road commission employees than existed previously.

Even when a commission employee is personally liable, he will not necessarily be sued in every case. Some practical and legal considerations may influence a plaintiff's decision. Foremost is the "visibility" of the defendants. While the plaintiff may have trouble identifying the individual employee whose negligence caused his injuries, it will not be difficult at all to identify the agency responsible for an unsafe road. Also very important is the "collectibility"--the ability to pay a judgment--of the defendant. The plaintiff is ultimately seeking money. Since the commission will often be liable whenever its employee is, and since the commission will be seen as a better source of funds, a plaintiff may simply choose to sue only the commission. The commission is likely to be a better defendant, from the plaintiff's point of view, for another reason. A jury in a trial for damages is more likely to award a

sizeable verdict against the commission than against an individual. Thus, in terms of both the size and collectibility of the award, the road commission is likely to be the "target" defendant. A legal consideration leads to the same conclusion. As was explained above, the commission is liable when a road is unsafe. The employee is liable when the road is unsafe and his active, personal negligence contributed to its unsafe condition. Therefore, it may well be easier for a plaintiff to prove his case against the commission. For these reasons, the plaintiff may well decide to ignore the employee and sue the commission instead.

Even when the employee is sued, it is likely that the commission will also be sued. If both the employee and the commission are found liable, the plaintiff is entitled to collect all of the award from either defendant. In this situation, the greater collectibility of the commission may again make it the target defendant (7).

There is, however, one legal consideration that could persuade the plaintiff to sue only the employee. Michigan law provides that any claim against a road commission must be brought within two years of the injury. When individuals are sued, the period is three years. Therefore, a plaintiff who has waited more than two years will have no one left to sue but the employee.

This is in fact what happened in the Hunter case. The plaintiff sued the commission and its engineers, but did so two years and two days after the accident. For that reason, the claim against the commission was dismissed. The engineers also claimed that the two-year period applied to them, and the court agreed with them. As with the liability portion of the Hunter case, the ruling is not clear. If the court held that the engineers were not liable even if they were negligent, it adds nothing to say that they must be sued in the shorter time period. However, the court's opinion can be read as saying that a commission employee is liable for negligence but must be sued within the two-year period. If the Hunter case says this, it represents a significant change in the law. Again, the case may be appealed and this point may be clarified. At present, however, the Hunter case should not be relied upon as creating a shorter period for employees.

In summary, commission employees are liable for payment of damages where their "active, personal negligence" causes injury to someone. Supervisory employees are liable on the same basis; they are not liable merely because the employees they supervise are negligent. Although employees may be sued individually, it is likely that the commission itself will also be sued, and will in fact be required to pay any judgment.

Criminal Liability

It is also possible (though much less likely than being found civilly liable) that an employee may be found guilty of criminal conduct in the course of his duties. In order to assess the likelihood of this, it is necessary to understand some of the differences between civil and criminal liability.

The primary purpose of a civil lawsuit is to provide compensation to an injured plaintiff. It does this by requiring the defendant who has been found liable to pay damages to the plaintiff. On the other hand, the ultimate purpose of criminal prosecutions is to preserve an orderly society; it does this by punishing those found guilty of crimes. This punishment can be in the form of a fine or a jail or prison sentence, or a combination of the two.

Because the consequences of conviction of a crime are more severe than the consequences of civil liability, there are many provisions of law that make it more difficult for a person to be convicted of a crime. First, the laws that create the liability are different. Civil liability is based on very general principles. Negligence is a good example of this: its principles are very broad, and can be applied in a great many situations. Criminal laws are much more specific. For the most part, conduct is criminal only where a specific statute or ordinance says it is. For example, whether driving at 30 miles an hour down a residential street is negligent depends on the circumstances, but it is a crime only if an ordinance or statute prohibits it.

Criminal cases are also not as easily started as civil cases. Any person can begin a civil case by filing the appropriate papers and paying the necessary fees. Criminal cases can be begun only by government officers, such as the county prosecuting attorney. The prosecutor has broad discretion whether to bring charges or not; he is not required to do it even if the facts clearly would support a conviction.

Once a prosecution is begun, additional protections come into play. Two of these relate to proof. First, the prosecutor must prove the defendant's guilt; the defendant is not required to prove his innocence. In addition, the prosecutor must prove the defendant's guilt "beyond a reasonable doubt." In a civil case the plaintiff wins if he proves his case "by a preponderance of the evidence;" that is, he must show that it is more likely than not that the defendant was at fault. The requirement of proof beyond a reasonable doubt is more strict. It is sometimes said to require a "moral certainty" as to the guilt of the defendant (8).

Another important protection is the jury system. In a civil case, the defendant can be found liable if five of six jurors agree. In a criminal case there are twelve jurors, and all must agree that the defendant is guilty. Obviously this makes it much easier for a single member of the jury to prevent a conviction.

All of these protections, all of which are parts of the criminal justice system, make a criminal conviction much less likely than a finding of civil liability. Therefore, unless the employee's misconduct is particularly bad and the consequences particularly severe, a prosecutor is not likely to bring criminal charges. Even when a person is found to be liable in a civil case, it does not follow that he would be found guilty in a criminal case. The two are so different that a finding of liability in a civil case cannot be used in evidence if there is a criminal prosecution.

There are many crimes that a road commission employee could commit, from embezzlement to bank robbery. Most of these have nothing to do with the employee's job. If an employee robs a bank, whether on duty or off, it is a crime, but it does not relate to the road commission's business. There are two types of crimes, however, which are more directly related to road commission activities.

The first is known as "negligent homicide" (9). A more descriptive name would be "vehicular homicide" because it applies only to death caused by negligent driving (10). The maximum penalty is a \$2000 fine, two years imprisonment, or both. The same negligence that creates liability in the civil area applies here also, although the prosecution is still subject to the protective rules described above, and negligent homicide prosecutions are not frequent. As is the case with civil liability for negligent driving, negligent homicide does not relate to the nature of a road commission's activities. It applies to everyone who drives a motor vehicle.

A criminal prosecution of a road commission employee is not likely to occur unless the employee's misconduct caused someone's death. This is so because there appear to be no specific crimes that would apply to injuries less than death caused by a road commission employee's actions in the course of his employment. In addition, as a practical matter, such injuries would be considered a civil matter by a prosecutor. Therefore, the second type of crime that might be charged against a road commission employee is the crime of "involuntary manslaughter" (11). An example of this is a case in Massachusetts where a bridge collapsed, killing three people. The main beams had not been secured with enough bolts and pins. The engineer supervising construction was charged with manslaughter. He was found not guilty (12).

While "negligent homicide" applies only to vehicles, manslaughter is broader. It could in fact include a killing by automobile and by other means as well. For example, a supervisor might order employees to use equipment in violation of safety regulations and when he knows the equipment is unsafe and likely to cause serious injury. While involuntary manslaughter can include a killing by automobile, there is an important difference between it and negligent homicide.

Negligent homicide requires only ordinary negligence, while manslaughter requires "gross negligence" (13). Gross negligence is not a greater form of negligence. It is different "not in degree but in kind" (14), and is based on the assumption that the defendant "did know but was recklessly or wantonly indifferent to the results" of his actions (15). It is therefore treated as the equivalent of intent (16). Since it is not possible to know what was in the defendant's mind, this knowledge can be inferred from the facts surrounding the incident, but those facts must support the conclusion that the danger "must have been apparent to him" (17).

Since the kind of conduct that would amount to gross negligence is seldom likely to occur, and since the knowledge that must be proven is difficult to establish, the possibility of criminal liability is slight. Although the possibility cannot be eliminated, it should not be considered significant.

Indemnity and Defense

When an employee is sued for money damages or charged with a crime, he is likely to have two concerns. First, if he is found liable, he may be required to pay a substantial amount of money, either as damages or as a fine. In a criminal case, he may be concerned about having to spend time in jail or prison. In addition, whether he wins or loses, he will be concerned about paying the costs of his defense, principally in the form of attorney fees (18). If a road commission employee were convicted of a crime and sentenced to jail, the commission could do nothing with respect to the sentence. However, the employee might look to the commission to help him present a defense at trial, and to pay any judgment or fine ("indemnify" him) if he lost.

The question of a road commission's providing a defense or indemnity is specifically covered by a statute in Michigan (19). The statute

treats civil and criminal cases differently. As to civil cases, it provides that when an employee of a governmental agency is sued for injuries caused by his negligence in the course of his employment and while acting within the scope of his authority, the agency may provide a defense for him and may indemnify him. The agency is permitted to provide a defense or indemnity or both, but it is not required to do so.

In criminal cases the rule is different in two ways (20). First, the employee must have had reason to believe that he was within the scope of his authority. Second, the agency may provide a defense (but is not required to do so) but is not permitted to indemnify him by paying any fine.

Therefore, the decision whether to provide a defense (in civil and criminal cases) or indemnity (in civil cases only) is, by statute, entirely within the discretion of the road commission. The next section discusses the range of alternatives available to a road commission in deciding whether to provide an employee with a defense or indemnity, and makes recommendations as to the most appropriate course of action.

Alternatives Available

Because the statute authorizing a governmental agency to defend or indemnify its employee does not require that the agency do either, a broad range of alternatives is possible. Briefly, these alternatives can be divided into three general approaches. First, the commission could decide to defend and indemnify all employees sued for negligence and defend all employees charged with crimes. Second, at the other end of the spectrum, the commission could elect never to provide a defense or indemnity. Finally, in between these two approaches is the more complex one of providing a defense or indemnity or both in some, but not all, cases.

The first choice, to defend and indemnify all employees, needs to be qualified in one important respect. Since the statute permitting indemnity and defense restricts them to cases where the employee was

acting within the scope of his authority (or in criminal cases, believed he was within the scope of his authority), any agreement to defend and indemnify in all cases would have to reflect this restriction. With this exception, though, it would be possible to provide both defense and indemnity in any case. This approach could be accomplished either by contract or by official policy. The commission could agree to the inclusion of a defense/indemnity clause in its employment contracts, or it could simply declare and follow a policy of providing a defense and indemnity in all cases. The contract method provides greater protection for the employee, at the expense of less freedom of action for the commission. The policy method provides somewhat less protection for the employee, since the commission could rescind or modify its policy at any time.

Whether expressed in a contract or a policy, the decision to defend and indemnify in all cases has several advantages and disadvantages. The advantages are:

- It would improve employee morale.
- It might promote road safety, and thereby decrease commission exposure to liability, by encouraging employees to make the more difficult judgment decisions.
- As to civil cases, which are by far more frequent, the commission will often be a defendant itself, so the cost may in fact not be very great.

This last point merits some discussion. When the commission is a co-defendant, it will likely be called upon to pay any judgment itself. In such cases, it has in fact indemnified the employee anyway, so to do it officially as well as in fact costs nothing. As to providing a defense in such cases, the reasoning is similar, though not identical. In most cases, the legal positions of the employee and the commission will be the same; when this happens, the commission's counsel can also represent the employees. In some cases, their positions would be different, possibly in conflict; in those cases, it would be necessary that the employee have his own counsel, which would be an additional cost to the commission.

The decision to defend and indemnify in all cases also has disadvantages:

- It would cost money. How much it would cost could be estimated by reviewing the history of litigation against commission employees.
- It might invite some additional lawsuits. For example, when more than two years have passed since the injury and the commission itself can no longer be sued, providing an employee defense and indemnity might have the effect of extending the commission's liability for an additional year.
- It might raise the settlement cost of a lawsuit, since the plaintiff will have a more collectible defendant.
- It might commit the commission, in advance, to provide a defense and indemnity in cases which it believes do not merit them. It is not possible to anticipate all of the types of cases that might arise, and then draft a contract provision or a policy sufficiently precise to separate those that merit defense and indemnity from those that do not.
- It might lead to some employee dissatisfaction if cases arise which the commission considers beyond the policy because it believes the employee's activity was outside the scope of his authority. If the agreement is part of an employment contract, the disagreement might lead to a lawsuit by the employee against the commission for breach of contract.

Clearly, providing defense and indemnity in all cases as a matter of contract or policy has definite advantages and disadvantages. The second approach, not providing them in any case, has advantages and disadvantages which reflect the fact that it is the opposite of the first approach. The advantage of this approach is that it is the least costly alternative. It avoids the possibility of additional attorney fees and damage awards, and also avoids the prospect of attracting additional lawsuits when plaintiffs become aware that the

commission will pay any judgment against one of its employees. The primary disadvantage of this approach is its adverse effect on employee morale. Since employees tend to see liability problems as being greater than they really are, this effect on morale may be larger than the risk of liability actually justifies.

Each of the first two approaches has significant problems. A blanket policy of providing indemnity and defense in all cases may commit the commission to liability, in advance, in situations which do not merit it. On the other hand, refusing to provide it at all is bad for employee morale. The third approach therefore becomes especially important. It involves providing either a defense or indemnity, or both, in some cases, but not necessarily all cases. This approach covers a range of possibilities; for purposes of discussion they can be divided into two groups according to the method used. The first method involves establishing specific criteria for determining the cases in which the commission will provide a defense or indemnity. The second method involves a general declaration that the commission will provide a defense and indemnity in appropriate cases, but will make the decision on a case-by-case basis.

The first method envisions a set of criteria which will be applied to determine whether a case qualifies for indemnity or defense or both. There are several criteria that might be used. They include:

- 1) Whether a case is civil or criminal.
- 2) Whether, in a civil case, the commission is also a defendant.
- 3) Whether the case was brought within two years or not.
- 4) Whether the employee's conduct involved professional judgment.
- 5) Whether the employee's conduct was reasonable and taken in good faith.

This list is intended to give examples of criteria that might be used; it is not intended to list all that might be used. Note also that the criteria would require the commission to provide a defense or indemnity in those cases that satisfy the criteria but would not prevent it

from providing a defense or indemnity even in cases where the criteria do not require it to do so.

The criteria can be made fairly specific. For example, under the first criterion listed above, one possibility is to exclude all criminal cases, on the theory that they are likely to involve conduct that does not merit assistance to the employee. Another possibility is to exclude only certain crimes. For example, only cases involving professional judgment (such as the Massachusetts case discussed earlier) might be included, and all crimes related to driving might be excluded. Another variation could be to exclude driving cases where the use of alcohol is a factor. A similar analysis could be used in civil cases.

Because this first method involves criteria which obligate the commission to provide a defense or indemnity in specified cases, its advantages and disadvantages are similar to those of the first approach, which requires the commission to defend and indemnify in all cases. Thus, it may be expected to improve employee morale, and may encourage those who must exercise judgment to do so more freely. On the other hand, it will cost some money, and may cause dissatisfaction (and perhaps lawsuits) on the part of employees who are sued and whom the commission declines to help. In addition it may commit the commission, in advance, to defend or indemnify an employee in a case in which the commission would prefer not to.

The second method involves less of a commitment on the part of the commission. The commission would indicate its intention to provide a defense and indemnity in appropriate cases, but would expressly reserve the right to decide in each case whether to provide help and what type to provide. While this would preserve flexibility for the commission, it might also be less beneficial to employee morale than including all cases or using firm criteria. However, in making decisions on individual cases the commission will in fact use some criteria. The commission could therefore make these criteria known to its employees as the guidelines it will use, so as to increase employee confidence in the policy.

The case-by-case method gives the commission flexibility in that it does not bind the commission in advance to defend and indemnify all cases. It has other advantages as well:

- It permits the commission to tailor its response to the individual case. Thus, it might decide to provide only a defense, or to indemnify up to or beyond a certain amount (if, for example) the employee had insurance coverage of his own.
- It permits the commission to keep the question of indemnity or defense a private one. The plaintiff need not know that indemnity will be provided, and may therefore settle his claim for a lesser amount.
- It leaves the commission free to develop more specific guidelines as more experience with individual cases is gained. At some time in the future the knowledge gained may be sufficient that specific binding criteria may be developed.

As against these advantages, the case-by-case method has two disadvantages. First, it will cost money, though the amount will be to some extent in the control of the commission. Also, it may not improve employee morale as much as an explicit commitment to defend and indemnify, though the way in which the policy is presented may have much to do with this.

Summary and Conclusions

A road commission employee is liable for damages if his negligence causes harm to a person or to property. He is not liable merely because of any position he may hold, such as supervisor, but is liable only for his own "active, personal negligence." When his liability is based on his activities as a road commission employee, the commission itself will usually be liable as well; therefore, it is likely that the commission will be a co-defendant and will bear the actual loss.

A road commission employee can be criminally liable for "negligent homicide" if his negligent driving causes a death, though such prosecutions are relatively infrequent. Apart from this, an employee can be criminally liable only where he is guilty of "gross negligence" which amounts to "wanton and reckless disregard" of the consequences of his actions. Because of the difficulty of proving this, and because this type of conduct is uncommon, criminal prosecutions of commission employees are likely to be very rare.

When a commission employee is sued for damages because of his work for the commission, the commission is permitted, but not required by statute, to provide a legal defense for him and to pay any damages assessed against him (indemnify him). If criminal charges are brought, the commission may provide a defense, but may not indemnify him.

Because the statute permits defense and indemnity, but does not require either, a broad range of options is possible. Some of them are:

- The commission can, by contract or declaration of policy, agree in advance to defend and indemnify the employee in all cases where the statute permits it.
- The commission can, by contract or declaration of policy, agree in advance to defend or indemnify the employee in all cases which meet certain specific criteria.
- The commission can declare that it intends to defend and indemnify employees in appropriate cases, but reserve the right to determine, with or without specific guidelines, which cases are appropriate, and to determine what help should be provided each case.
- The commission can decline to defend or indemnify its employees in any case.

Because the third option offers the prospect of substantial help to an employee while preserving the commission's control over its costs and flexibility in its policy, it appears to be preferable.

However, the approach finally decided on by the commission need not fit entirely into any one of the four categories listed above. It may range across two or more of them. Those categories, and this report, are intended only as guides for discussion. What form the commission's policy should take is a matter for the judgment of the commission, in consultation with its counsel.

FOOTNOTES

1. M.C.L.A. 691.1405, M.S.A. 3.996(105).
2. M.C.L.A. 691.1402, M.S.A. 3.996(102).
3. Rose v. Mackie, 22 Mich. App. 463, 177 N.W.2d 633 (1970);
Longstreet v. County of Mecosta, 228 Mich. 542, 200 N.W. 248 (1924);
Dowell v. State Highway Commissioner, 365 Mich. 268, 112 N.W.2d 491
(1961).
4. Smith v. Olander, 251 Mich. 503, 232 N.W. 364 (1930).
5. Rush v. Pierson Contracting Company, 310 F. Supp. 1389 (E.D.)
Mich. (1970).
6. Hunter v. Board of County Road Commissioners, _____ Mich.
App. _____, _____ N.W.2d _____ (March 1979).
7. If the commission did pay all of the judgment, it could, if
it chose, require the employee to reimburse it for a pro-rata
share of the award.
8. 30 Am. Jur.2d Evidence § 1170.
9. M.C.L.A. 750.324, M.S.A. 28.556.
10. People v. McKee, 15 Mich. App. 382, 166 N.W.2d 638 (1968).
There is a lesser offense called "felonious driving," which applies
when the injuries are "crippling," but less than death. M.C.L.A.
752.191 M.S.A. 28.661
11. M.C.L.A. 750.321, M.S.A. 28.553.
12. The case was not appealed and is therefore not reported. It
is discussed in Richards, F., 1977 The Field Engineer: Political
and Legal Scapegoat? Civil Engineering July 1977
13. People v. Florida, 61 Mich. App. 653, 233 N.W.2d 127 (1975).
14. People v. Orr, 243 Mich. 300, 220 N.W. 777 (1928).
15. People v. Campbell, 237 Mich. 424, 212 N.W. 97 (1927).

16. People v. Florida, 61 Mich. App. 653, 233 N.W.2d 127 (1975).
17. People v. Orr, 243 Mich. 300, 220 N.W. 777 (1928).
18. Although the engineer in the Massachusetts bridge collapse case was found not guilty, his legal fees came to \$27,000.
19. M.C.L.A. 691.1408, M.S.A. 3.996 (108).
20. As to criminal cases the statute took effect on May 11, 1978 and applies to expenses incurred after December 31, 1975.