# Fundamentals
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# Risk Management

**by**

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## WHAT IS RISK MANAGEMENT?

Risk Management is a "process for managing the risks that you can identify -- and insuring those you can't manage." It uses accepted managerial techniques in order to preserve the assets of the organization or entity. The Risk Management process is comprised of two separate, but equally important components, risk control and risk financing.

Risk control involves identifying the organization's risk exposures, examining the various alternatives available to either eliminate those risks that can be eliminated or mitigate the effects of those that can not be eliminated, selecting the best alternative or combination of alternatives to deal with each risk exposure, implementing the chosen techniques, and monitoring the process for the purpose of altering or improving the program based on the observed results. Risk financing is the method or methods by which an organization chooses to pay for those losses that result from the various risk exposures the organization faces.

Because the decision as to how to finance losses is generally left to the elected officials within each particular municipality, you (and your department's administrators) will have little control or influence on this aspect of the risk management function. The area where your efforts will best impact, where your influence and control will be felt, and noticed, is in the risk control arena. For this reason, the remainder of this article will focus on the risk control aspects of your municipality's overall risk management program.

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## DEFINITIONS – TERMS TO KNOW

Before proceeding further, it is important that we all know and understand the terms and their meanings, as used frequently within the risk management profession.

EXPOSURE: An exposure is any circumstance, item or situation that has the potential to cause a loss.

LOSS: An actual expenditure as a result of an incident. An expenditure does not necessarily require a monetary outlay. The lost service of an employee is a loss.

RISK: The degree of likelihood that a loss will occur.

HAZARD: A condition or situation that has a high probability of causing a loss.

INCIDENT: An occurrence with a potential for a resulting loss.

CLAIM: A formal notification that an incident has occurred.

LIABILITY LOSS: A loss arising when an individual or organization files suit alleging wrongdoing. A loss is incurred whenever funds are expended as a result of the lawsuit—to investigate or defend the suit, and to pay a settlement, judgment or award—whether the suit has merit or not. A loss results irrespective of any judgment or award.

## DISPELLING THE MYTH

All too often, people mistakenly believe that risk management is something created by, and for the benefit of, insurance companies. Nothing is further from the truth. Controlling risk is a management function, created by management to reduce its need for, or reliance on, traditional commercial insurance companies as the sole means of paying for losses.

In fact, most professional risk managers judge the success of their efforts based on the amount of insurance they are forced to purchase after implementing their program. The less insurance they need, the more successful their efforts. The theory is that although risk cannot be entirely eliminated, the frequency and severity of those losses that do occur can be minimized. This, in turn, allows the organization to finance losses by alternative methods such as retaining them rather than by paying the seemingly exorbitant premiums charged by traditional commercial insurers. The entity can invest the monies saved or use them to grow and expand the organization. This philosophy is completely compatible with the needs of municipal government. With more tax dollars available, the municipality can more effectively, with increased cost efficiency, provide the services the community has come to expect. The increased savings can be used to purchase patrol cars, increase manpower, pay for sidewalk reconstruction, or finance any other priority item.

Due to this increased awareness of the need to manage risk, many public entities are joining together to form risk management pools, which are very unlike traditional commercial insurers. Most pools are tax exempt, non-profit, quasi-governmental organizations that provide insurance type coverages and services by way of a joint arrangement. Participating municipalities "pool" their funds to cover each other's losses by group purchase of insurance coverage, thereby avoiding the prohibitive premium prices charged to individual municipalities by commercial insurers. Its very much like buying wholesale. For this reason, it is to everyone's benefit to contain and control losses. For risk control practices to provide maximum benefit to all pool members, all members must aggressively participate in the risk control process.

As a police professional, you are a risk manager. You train for and manage the hundreds, or thousands, of interactions between yourself and the public, and you do this on a daily basis. These interactions all carry the potential for litigation, but more importantly they create the possibility of injury to you, your fellow officers or citizens. It is your responsibility to train for and manage your daily activities in such a manner as to maintain the lowest possible chance of loss. That's the bad news. The good news is that, if your municipality is a member of a risk management pool, you're not in this alone.

Until recently, police professionals in pool member municipalities had nowhere to turn for advice, input, or direction on ways to manage their department's unique exposures. However, many pools are committed to providing the best possible coverage at the lowest possible price and believe that the risk control function will assist in achieving these goals. In some pooling organizations, this has led to the creation and funding of specific law enforcement risk control efforts. Now, through the development of a strong, long term relationship with your law enforcement risk control specialists, many law enforcement officers, trainers and administrators have a resource available through which information and recommendations can be obtained. Through this relationship many benefits and advantages can be achieved. Primary among these benefits is the opportunity to provide input that will affect the decisions made concerning the type and nature of services provided, specially tailored to your department's needs. Through a cooperative effort, by everyone working toward the same objective, you will greatly impact the amount of losses your department, and thus your pooling organization, incurs.

## WHERE TO START?

Before you can take positive steps to reduce your risk exposures, you have to know what risks you face. You must analyze and identify the areas within your day-to-day activities that hold the potential for causing losses. This can be done in a variety of ways, many of which your law enforcement risk control specialists are ready and able to assist you with. At the management level, exposures can be identified by examining past loss experience and histories, on-site surveys, questionnaires, and by consulting with experts both from inside and outside your department. The identification process is the most important step in any concerted risk control program.

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At the line level, exposures are best identified by you, the officer on the street. Do this by examining the tactics and techniques that you employ in manageing people and situations. Think about your attitude, your approach to people, and the “vibes” that you give off. Review your department'' risk management techniques. Work within these efforts to manage your personal, and therefore youur department’s, risk of injury, property damage, and litigation.

Of the various identification techniques available, on-site risk assessment surveys conducted by your pool’s law enforcement risk control staff members, and a review of loss "runs" or histories provide the greatest amount of insight into those exposures unique to the delivery of police services, and identify trends or patterns within your department that may be cause for concern. Loss histories, which can be provided by most pooling organizations, document not only the severity (cost) of past losses, but the frequency with which they occur. If your agency or department does not have a significant history of losses, much valuable information can be gleaned from examining loss histories of comparable agencies or municipalities.

## FREQUENCY VS. SEVERITY

By looking at past occurrences, we frequently can predict future events. By examining how frequently a loss-causing situation has occurred in the past, we can predict with a certain degree of accuracy how often it will occur in the future. By reviewing the cost, or severity, of prior losses we can make an informed decision as to which conditions deserve priority attention and how best to finance the larger losses.

When reviewing loss histories your managers will quickly discover that, fortunately, there is usually an inverse relationship between frequency and severity. Those events that occur most frequently tend to be less severe in nature. Conversely, the most severe incidents occur much less frequently. With enough experience, or history, an analysis will further show that based on the frequency with which events occur a reasonably accurate forecast as to the severity of future losses can be made. That's the good news. The bad news is this creates another problem that police officers, trainers and executives must deal with.

Statistically we know that frequency predicts severity. The issue, then, becomes one of foreseeability. If an event is predictable, is its future occurrence foreseeable, in a legal sense? And, if it's foreseeable, do we have a duty to act? AND, if we fail to act, are we behaving in a negligent manner? The answer to all of these questions is most probably Yes!

The courts often refer to this as being on "notice". Stated simply, you knew, or should have known, that a particular event or occurrence would take place. Courts have further ruled that if the need to take action is obvious, failure to act demonstrates a "deliberate indifference" towards the civil rights effected citizens. In other words, if something is foreseeable, if it is predictable, if it is likely to occur, it cannot be ignored as a potential problem.

Beyond the potential for litigation when a critical situation is left unresolved, is the likelihood of officer injury as a direct result of a department’s failure to deal with such a situation (lack of or improper training is a good example). Not only do sound risk control practices insure a higher level of officer safety and result in cost savings to the municipality, but they are also, in some instances, required by contemporary court decisions.

## RISK CONTROL TECHNIQUES

Once your risk exposures are identified, the next step is to choose the technique, or combination of techniques, best suited to effectively eliminate or control the exposure. There are five basic risk control techniques. Some can produce the desired results in and of themselves, others work best when used in combination, dependent on the particular exposure being dealt with. These five basic techniques are defined here:

**RISK AVOIDANCE:** Voluntarily choosing to no longer participate in the activity that creates or causes the loss. If you no longer provide the service or perform the function that created the loss exposure in the first place, you are no longer faced with the exposure. Examples of risk avoidance would include disbanding a SWAT team or canine unit, refusing to allow civilian ride-alongs in patrol cars, prohibiting misdemeanor pursuits, or a prohibition on the carrying of blackjacks or sap gloves.

For law enforcement, risk avoidance is not always an option. There are some things we just have to do, but it is nonetheless a desirable technique where its implementation does not significantly interfere with the delivery of vital and necessary police services.

**PREVENTION OF LOSSES:** Prevention involves measures or activities undertaken before a loss occurs, in an attempt to prevent the loss-causing event from happening, or to render its impact less significant. Examples of preventive measures are the creation and implementation of sound policies that provide appropriate guidance to line level officers, continuous and on-going in-service training, patrol cars equipped with prisoner screens, and the issuance of latex gloves for the prevention of infection. The primary objective of loss prevention is to reduce the frequency with which the loss causing event occurs.

**REDUCTION OF LOSSES:** Reduction techniques can be implemented either before or after a particular loss occurs, in an attempt to reduce the amount of the loss or damages that may result. Sprinkler systems, fire extinguishers, soft body armor, and vehicle safety belts are examples of reduction measures. These activities are intended to minimize the potential severity of loss. They do not prevent the loss causing event from occurring.

**SEGREGATION OF RESOURCES:** This technique actually consists of two separate elements—duplication and separation, both having substantially the same goal: to segregate the agency's resources so that no one event can significantly impair the overall operation of the organization. Basically, segregation involves not placing all your eggs in one basket.

Duplication involves the use or creation of spares or backups, to be used only in the event the primary or original item is damaged or destroyed. Examples of duplication are tape backups of computerized data, spare patrol cars left in reserve, or an Emergency Operations Center (EOC) housed in another location that is only utilized if a power failure or natural disaster renders the primary communications facility inoperable. These items for the most part sit, unused, until after a loss occurs. Duplication efforts are intended to reduce the severity of potential losses because the department can still function, although possibly with less efficiency.

Separation is similar to duplication in that facilities, operations or items are duplicated in other locations. The difference is that these facilities or items are used on a daily basis. Examples of separation would be the creation of precincts or mini-stations that provide full service on a daily basis, and can serve to take up the slack in the event the primary location becomes disabled or inoperable. Separation also targets potential severity, but because of its daily usage, can actually increase the frequency of losses.

**TRANSFER OF RISK:** Transfer techniques are used to transfer, or move, the risk from one party to another. The most common examples of transfer strategies are the use of waiver forms, hold harmless agreements, insurance policies, and contracting with others for services such as prisoner transports or lodging. Ideally, to receive maximum benefit from transfer arrangements, the organization strives to transfer both legal and financial responsibilities for an incurred loss, although this is not always possible.

## IMPLEMENTING AN EFFECTIVE RISK CONTROL PROGRAM

With an understanding of risk control fundamentals it is now possible for you, the police professional, to begin to design and implement a personal risk control program tailored to your individual needs. When planning how best to implement your risk management effort, it's important that you never lose sight of the fact that effective risk control practices involve more than just litigation avoidance. Of primary importance is officer safety and survival. A program that is founded on this premise will not only encourage officers to work safer and smarter, but will also, because of an obvious overlap in the issues that create both injury and liability, significantly impact liability concerns.

While researching the losses incurred by your department you will probably find that you and your officers are getting hurt in the process of creating liability. The same things that cause officers to get hurt cause many of the civil suits we are forced to defend. Police officers are routinely involved in inherently dangerous situations, they carry a variety of weapons that can injure or kill, they drive cars at high speeds, and they have to take violent or resistive subjects into custody. All of these activities can result in officer injury or litigation. It is entirely that a concentrated effort to reduce the potential for officer injury will positively influence your liability exposures. The law enforcement profession has, however, routinely placed a greater emphasis on avoiding liability. Not only has this failed to work, but it has also resulted in the loss of the valuable service of some of our best and brightest officers. We must, therefore, shift our emphasis, and implement a risk control program based on a top-down initiative. All levels within the agency, beginning with the chief executive, must be sold on the need and value of such a program, and encouraged to implement and practice sound risk control measures in all of their daily encounters with the public.

Police executives, supervisors, and line officers must feel a sense of ownership in the program. They must all feel they have participated in, or been allowed the opportunity to provide input into, the decision making process that led to the development and implementation of the program.

At the executive level, managers must willingly take responsibility for oversight and control of the program by developing sound procedural documents and by providing crucial in-service training in critical skills areas, and supervisory training to the agency's middle level managers.

At the supervisory level, employees must accept responsibility for oversight of line officers' daily activities to ensure that they conform to department policy, and are performed in a manner consistent with the agency's approved training. Supervisors must also communicate with police executives concerning the effectiveness, or continued feasibility, of the chosen techniques, policies, training, or programs.

Finally, if risk control techniques are to be effective, line level officers need to believe in the principles on which they are founded, so that the basic concepts are appropriately translated to the streets. They must understand the need for and comply with requirements to report all relevant and important data, so that activities can be monitored and measured against the intended goals of the risk control program. Without the line officer's feedback, it is impossible to monitor the risk control program and make necessary and appropriate adjustments to enhance and improve it.

***While compliance to the loss prevention techniques suggested herein may reduce the likelihood of an incident, it will not eliminate all possibility of an incident.***

***Further, as always, the reader is encouraged to consult with an attorney for specific legal advice.***

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