



County Connection

News from the Washington Counties Risk Pool

September/October 2009

A New Year— A New Lineup of Classes!

While Executive Director Vyrle Hill and Member Services Manager David Goldsmith have been on the road visiting member counties, Jill Lowe, Loss Control Coordinator, has been setting a schedule of classes that will take you all the way to April of 2010!

Comprehensive Public Records Officer



Training and Certification will be offered from late October 2009 through March 2010. Washington's Public Records Act imposes strict liability on counties and other local governments—fail to produce a requested record, however hard you search, and your county will have to pay mandatory daily penalties and attorney fees.

Designated Public Records Officers are the public face of your county's open government program and will affect your relationship with every requester. This course is intended for every person who responds to public records requests.

Course topics include:

- Public Records Act 101
- Third Party Records
- Personnel Records, Step by Step
- Exemptions, Exemptions, Exemptions
- Law Enforcement Records
- A Layman's Guide to the Attorney-Client Privilege
- Records Retention, Creation and Indexing

Ramsey Ramerman is the primary facilitator for this course. He is an attorney who specializes in helping local governments meet their obligations under the Public Records Act and other open

government laws. Ramsey also serves as the unofficial local government representative on the "Sunshine Committee" that is currently reviewing all of the exemptions under the Public Records Act.

A representative from the Secretary of State's office will provide guidance on file retention.

Class dates and locations include:

- * 10/29-30, 2009, Eastern Region
- * 12/3-4, 2009, South Central Region
- * 1/21-22, 2010, North Western Region
- * 2/18-19, 2010, South Western Region
- * 3/4-5, 2010, North Central Region

The two day course is free to WCRP member counties; you can register at www.wcrp.info/training.html. WCRP will provide flash drives containing source documents and other sample policies and procedures to each student.

Many of you have already attended the two and one-half day Management & Supervisory Training class offered during the last couple of years. This year the Pool is offering a streamlined, one and a half day **Management & Supervisory Training** in multiple locations throughout the counties.

Seasoned instructors with real workplace experience will help navigate both veteran and newly assigned managers and supervisors through the curriculum, addressing issues public sector managers/supervisors already face, and how to constructively hone their skills in many areas, including:

- Leadership and Supervision
- Communications
- Managing Time and Priorities

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TRAINING & EVENTS



Training Schedule 2009-2010

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- Dealing with Problem Employees
- Public Sector Ethics
- Avoiding/responding to claims of harassment, bullying, discrimination and potential employment-related liability

Connie Poulsen and Michael Bolasina are the instructors for these classes.

Connie Poulsen is the Director of Leadership & Management Education for Peninsula College in Port Angeles. She is also a principle in Poulsen & Associates, where she contracts with organizations as a professional speaker, trainer and consultant. She came to Peninsula College after 30 years at Xerox Corp., where she managed sales and profits as District Manager of Los Angeles. She has Bachelor's and Master's degrees in Business Administration from Cal State-Long Beach, and Marketing Management Certificates from Stanford and Columbia Universities' Graduate Schools of Business.

Michael Bolasina is an attorney with the Seattle law firm of Stafford Frey Cooper. He received a Bachelor's degree from the University of Michigan and a law degree from New York University. At Stafford Frey Cooper, Michael has a general employment practice that involves consulting, investigating complaints, and defending employment-related lawsuits. He also wrote the employment law chapters in Stafford Frey Cooper's recent book, "Staying Out of Court and In Business." which is directed to owners and managers of medium and small businesses.

Class dates and locations include:

- * Week of January 4-7, 2010, three locations within Grays Harbor, Thurston and Mason Counties
- * Week of January 11-14, 2010, three locations within Skamania, Clark and Cowlitz Counties
- * Week of February 1-4, 2010, three locations within Franklin, Walla Walla and Kittitas Counties
- * Week of February 23-24, 2010, one location in Lewis County
- * Week of March 22-26, 2010, three locations within Skagit, Whatcom and San Juan Counties
- * Week of March 30-April 1, 2010, two locations within Benton and Yakima Counties
- * Week of April 6-9, 2010, two locations within Spokane and Pend Oreille Counties
- * Week of April 26-29, 2010, three locations within Okanogan, Chelan and Jefferson Counties

We are still finalizing the entire schedule, and the classes will soon be listed on the website at www.wcrp.info/training.html.

This class is free to WCRP members and is not open to non-WCRP-related members.

We want to thank all the counties for their generosity and flexibility in scheduling this great line-up of classes!



Executive Committee

President

Jay Winter, Walla Walla County

Secretary/Treasurer

Marilyn Butler, Skamania County

Other Members

Tammy Devlin, Thurston County

F. Lee Grose, Lewis County

Rose Elway, Grays Harbor County

Steve Clem, Douglas County

Randy Watts, Whatcom County

Andrew Lampe, Okanogan County

Keith Goehner, Chelan County

Mark Abernathy, Kitsap County

Steve Bartel, Spokane County

Risk Pool Staff

Administration

Vyrle Hill, Executive Director

Sue Colbo, Auditing/Accounting Officer

Claire Thompson, Assistant/Editor

Claims

Susan Looker, Manager

Mike Cook, Analyst

Candy Drews, Analyst

Tammy Cahill, Representative

Lisa Daly, Assistant

Member Services

David Goldsmith, Manager

Jill Lowe, Loss Control Coordinator

To access *County Connection's* e-version, go to www.wcrp.info

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**WASHINGTON COUNTIES
RISK POOL**

Created by Counties for Counties



TRAINING & EVENTS



2009 Autumn Conference and Board of Directors Meeting

WHEN: Wednesday — Friday, November 4-6, 2009

WHERE: The Red Lion, Columbia Center, is located in Kennewick, Washington, adjacent to the Columbia Center Mall, three blocks from the Three Rivers Convention Center. Their location provides easy access to seven nearby golf courses, plenty of shopping, boating on the Columbia and Snake rivers and fishing on the Yakima River as well as downhill and cross-country skiing during the winter months. Cavanaugh's Landing Restaurant serves breakfast, lunch and dinner daily with Louie's Lounge open after 4pm for food, sports and entertainment.

A block of overnight rooms at the Red Lion has been set aside for Wednesday and Thursday nights for the OFM per diem rate (\$70 + T&F). Phone toll free 800-733-5466 or 509-783-0611 and specify the group rate for the Washington Counties Risk Pool. The block will remain available until Friday, October 16th.

CONFERENCE REGISTRATION: Logon to the WCRP homepage (<http://www.wcrp.info>) and click on the "Events & Training Calendar" link in the (upper) left column, then onto the "Online Registration Form" in the middle. From the "Events" drop-down, select "11/04/2009-Autumn Conference and Board of Directors Meeting" and fill in the applicable boxes. Driving directions and other details will be provided after completing your online registration.

SCHEDULE: The conference schedule includes:

Wednesday, November 4th

3:00 – 5:30 pm Executive Committee Meeting

Evening: *Nothing formal planned – ON YOUR OWN*

Thursday, November 5th

8:30 – 11:30 am Roundtable – County Claims Administrators and Risk Managers, including presentations on Playground Inspections (Bryan Perry, Benton County), the County Training Institute (Tonia Sugarman), and the WASPC Accreditation Program (Garry Anderson)

11:45 – 12:45 pm Luncheon with Legislative Briefing (Eric Johnson, WSAC)

12:45 – 2:45 pm Organizational Review / Strategic Planning (David Goldsmith)

3:00 – 4:30 pm Work Session and Board Meeting Preview

Evening: *Nothing formal planned – ON YOUR OWN*

Friday, November 6th

8:30 am —? (Noon) Board of Directors Autumn 2009 Meeting

Hope to see you there!

Did You Know? Kennewick was first home to the Chemnapum Indians. The name means Winter Haven, an appropriate title as the tribe gathered in the mild climate to trade, fish and pasture their horses. Kennewick is now the largest of the three cities and relies on light industry and retail to support its thriving economy. Their history includes that of Kennewick Man, a 9,200-year-old skeleton unearthed in Kennewick's Columbia Park - a significant discovery receiving national attention.



Pool Side- From Your Executive Director, Vyrle Hill

This column is intended to inform the readers of a few Pool-related tidbits. However, please take a few minutes to read about several other Pool happenings that are reported elsewhere in this newsletter.

The 22nd edition of the Joint Self-Insurance Liability Policy for Pool Year 2009-10 was recently delivered to the 28 members of the Washington Counties Risk Pool. How fast the years have gone by!

2009-10 Officers and Executive Committeepersons:

During the July 31st Annual (Board of Directors) Meeting, Walla Walla County Personnel/Risk Manager Jay Winter was elected WCRP President and Skamania County Risk Manager Marilyn Butler was elected WCRP Secretary/Treasurer for 2009-10. They join Chelan County's Keith Goehner, Douglas County's Steve Clem, Grays Harbor's Rose Elway, and Kitsap County's Mark Abernathy along with Lewis County's Lee Grose, Okanogan County's Andrew Lampe, Spokane County's Steve Bartel, Thurston County's Tammy Devlin and Whatcom County's Randy Watts as the WCRP 2009-10 Executive Committee.

Claims: The Pool's claims-related database reflects a total of 16,471 third-party liability claims and lawsuits having been reported during the 21 years the Risk Pool has operated (October 1988 through September 2009), with 492 remaining "open" at year's end.

Nearly \$168 million has been paid by the Pool during the past 21 years to address these cases, and another \$35 million is reserved to address open files. These amounts include nearly \$79 million in member reimbursements for their deductibles and insurance recoveries of more than \$70 million. Pooled funds for the Risk Pool's share of the cases filed total nearly \$55 million.

Executive Director Contact: Please feel free to share your comments, suggestions, and oh, yes, criticisms... direct these to Vyrle Hill – WCRP Executive Director, 2558 R.W. Johnson Road S.W., Suite 106, Tumwater, WA 98512-6103; OR phone: 360/292-4500 extension 101, 360/292-4495 direct, 360/292-4501 facsimile, or 360/480-2116 mobile.

Member Services—David Goldsmith

Well, the road trip is nearly complete. Over the past several weeks, Executive Director Vyrle Hill and Member Services Manager David Goldsmith have traveled to the four

corners of the state carrying the message of the Washington Counties Risk Pool to its member counties' legislative leadership. We thank everyone who made themselves available for the county presentations.

This series of annual membership visits included a presentation of changes to the insuring agreement adopted during the Annual Meeting in July; specifically, the elimination of coverage for violations of the Public Records Act, the case-by-case 'opt-out' provisions, and the coordination of the insuring agreement with RCW 4.96.041, defending and indemnifying employees. Also discussed in great detail has been the layered reinsurance supporting the insuring agreement, and focusing on the layer experiencing the most significant increase in premium dollars. The claims handling policy was also reviewed with specific reference given to the Pool's responsibility in managing claims above the member's deductible or \$50,000, whichever is less.

In addition to specific changes affecting this year's coverage and premium, Vyrle and David reviewed the health of the Pool and specific services being provided; emphasizing the Pool's upcoming trainings including the management and supervisory series for line or lead supervisors, and the Public Records Certification for the designated County Public Record Official(s).

Vyrle and David also attended the WAPA meeting during the recent WACO Conference to discuss the Pool's policy in claims management and the need to address cases exceeding \$50,000 regardless of a member's deductible with the Prosecuting Attorneys. At issue for the Prosecutors who are defending cases with in-house staff is the question 'who is the client?' Or who are they bound to represent? Is it the County or is it the Pool? The issue for the Pool is its responsibilities to control and manage claims of the Pool's entire membership and its re-insurers in cases where the County is providing in-house defense. The free exchange of issues and concerns and the roles and responsibilities was a good first step in opening channels of communications between the Pool and members' elected legal counsels. Follow-up with the Prosecuting Attorneys will provide a continuous forum to address areas of mutual concern.

As this month comes to a close so will the member county visits for 2009. As always, much is gained by these visits and as the Pool's membership gathers in Kennewick, some of what was learned will be applied to the planning of the November conference and the content of the meetings. See you in Kennewick, if not before.



Helpline NEWS



Here is the latest Question of the Month from the WCRP Helpline HR *Express* Update:

Question:

Can we terminate employees who refuse to take a regular flu and a H1N1 vaccine?

Answer:

From an employment law perspective, an employer should not require employees to get flu (including H1N1) shots, nor discipline employees who refuse to do so, and should limit its role in vaccinations, if at all, to that of a facilitator, avoiding ultimatums and other efforts to force employees to be vaccinated.

Actions an employer CAN take to increase chances that employees will be vaccinated against the flu include offering the flu shot at no cost, and/or making vaccinations available at the work site through a reputable third party, and taking other measures to ensure good health at work. The US Department of Health and Human Services has recently updated its guidelines for employers on managing the flu risk in the workplace, which we strongly encourage you to review at <http://pandemicflu.gov/professional/business/> (see other excellent resources on this issue at http://www.pandemicflu.gov/faq/workplace_questions/human_resource_policies/index.html).

If the employer chooses to make flu shots accessible or available at or through work, and employees choose to receive the flu shot under these conditions, the employer must consider whether it will be during their work time or whether they must do so before or after hours or on their lunch break, etc. If the latter, employees who may want to take advantage of the flu shot may argue that it cuts into their lunch hour or other free time (especially if there is a line they must wait in or it takes time to complete paperwork) and be discouraged from doing so. Although we are not aware of a specific claim to that effect, you may want to consider making the flu shots available at times such that those who want to take advantage of the offer can do so without impeding on their free time and meal breaks.

If the employer does make flu shots available at work through a reputable third party, it should ensure that local counsel is involved to draft and review appropriate documentation for employees to sign that mitigates the employer's risk of liability should any adverse effects result from the shots or actions of the third party. That said, beyond these issues, there may be industry or health care regulations (beyond employment laws) which would govern the flu shot offering at your place of business. You may also wish to consult with your local OSHA office for additional guidance. Ultimately, while we are not aware of any employment law prohibiting your company from simply encouraging employees to become vaccinated, the company must stop short of requiring it if health care laws/regulations do not support such a mandate.

This document has been provided for informational purposes only and is not intended and should not be construed to constitute legal advice. Please consult your attorneys in connection with any fact-specific situation under federal law and the applicable state or local laws that may impose additional obligations on you and your company.



SAFETY NEWS



School's In Session – Part 1 of 2

* For simplicity, in this newsletter the word pedestrian will include all of the above activities by children.

With public & private elementary, junior high, and senior high schools in full swing for the 2009-2010 school year, now is a good time to review safe driving when children are present as pedestrians (Part 1), and when sharing the road with teenage drivers and school buses (Part 2, next issue).

Children While Walking, Running, Biking, Rollerblading, and Skate Boarding

According to the National Highway Traffic Safety Administration (1) most children as pedestrians* are injured or killed by colliding with a motor vehicle while near their home or on their own street, (2) most of the accidents occur on clear days, and (3) between the hours of 3 p.m. and 6 p.m.

What are the factors that lead to child/vehicle collision accidents?

- All children daydream, are easily distracted, and are often times oblivious to danger. When children are near their home they will usually lapse into a "comfort zone" making them even more vulnerable.
- While children may have the safety of crossing guards at the intersections near the school, no such safeguards exist for those children who have to cross intersections and streets further from the school.

Some children also face the dangers of crossing streets without crossing guards after being dropped off by a school bus.

To further exacerbate the situation, children are more likely to jaywalk when on familiar streets closer to home.

- Children often times have difficulty judging approaching vehicle speed. If most vehicles on

the streets they frequent obey the speed limit, they can be fooled by the approaching speed of someone breaking the speed limit.

Speeding at any time is never a good idea, but particularly so in residential areas and school zones.

- Children will watch the "Walk/Don't Walk" sign at intersections, and immediately step off the curb when the sign changes to "Walk". Drivers who run red lights are putting children waiting to cross in extreme danger.

The same holds true for drivers who turn right on red without first coming to a full stop. Remember the law is right on red after a complete stop. A rolling right turn on red is probably the most commonly violated traffic law in the U.S.

Most intersections have signal light and street light poles, trash barrels, newspaper holders, or other obstructions. It is easy for a child to unintentionally hide behind one of these obstructions. Turning right on red should be done with caution.

- Children often fail to anticipate a vehicle entering or backing out of a driveway. Smaller children are difficult to see for a turning or backing driver. And, a fast moving child running, skate boarding, or bicycling may cross your path unknowingly unless you remain vigilant.
- School bus stops, whether marked or unmarked, are a hazardous driving area. Children will often play while waiting for the bus, including suddenly running into the street.

Additionally, a child who arrives late for the bus may suddenly dart into the street in an attempt to catch the bus or get the bus driver's attention.

- In larger cities remember that children not only take school buses to school, but they may also use the mass transit system. During mornings when children are on their way to school or afternoons when schools let out, be alert to children using mass transit buses and trolleys.
- Children on bicycles, skate boards, or roller blades may be just learning to use these toys. They can easily lose control and end up in the

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SAFETY NEWS



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path of your vehicle. Even more skilled children can hit a rock, loose sand, or other obstacle and swerve or fall in front of you.

- Distracted drivers talking on cell phones, fiddling with the GPS unit, texting, eating, etc. have been shown in studies to drive and react about the same way as someone who is over the legal limit for alcohol. While multi-tasking while driving is never good, doing so when children are present borders on gross negligence.
- Within your own family, supervise your children closely, and take the time to discuss the seriousness of pedestrian/vehicle accidents. Also, teach by example, such as when crossing streets or riding your bike.
- Don't be bashful about alerting the authorities to dangerous traffic situations. Demand that changes be made. Report drivers who habitually speed in residential areas and school zones.

Life is full of regrets. Unfortunately there are few chances for a "Do Over". Don't make striking a child with your vehicle a regret that you will remember every day of your remaining life.

Article written by
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Arthur J. Gallagher Risk Management Services, Inc.

"The information contained in this report was obtained from sources which, to the best of the writer's knowledge are authentic and reliable. Arthur J. Gallagher Risk Management Services, Inc. makes no guarantee of results, and assumes no liability in connection with either the information herein contained, or the safety suggestions herein made. Moreover, it cannot be assumed that every acceptable safety procedure is contained herein, or that abnormal or unusual circumstances may not warrant or require further or additional procedures."

In two previous *Safety Topics* articles, Tim White discussed the Seven "Sins" of Safety... they are: Procrastination, Ignorance, Complacency, Cluelessness, Acquiescence, Complicity and Stupidity.

Procrastination is the putting off of a task intentionally and habitually. A good example is failure to do a good pre-trip inspection.

Ignorance is the lack of knowledge or understanding. Even an experienced driver may not have driven on a particular road, or in bad weather conditions.

Complacency is the self satisfied state of mind that makes one oblivious to any dangers present. Familiarity may breed contempt, as the saying goes, but it most assuredly breeds complacency.

Cluelessness is defined as a person who is so busy with his/her own thoughts that s/he find little room for outside stimuli, or someone who is totally uninformed. Are you daydreaming while driving?

Acquiescence is the going along with something that you know is unsafe. You did not initiate the unsafe action, but you condone by repeating it. Your actions encourage others to do the same.

Complicity means not only knowingly breaking a rule or law, but also assisting or encouraging others to do the same. Are you wearing your seatbelt?

Stupidity is defined here as knowing better, but doing it anyway. Have you ever driven aggressively? Stupidity mostly comes from letting our emotions overcome our logic.

The intent of Tim's newsletters is to help focus on behavior, since statistics show that driver behavior is the cause of most vehicle accidents. "Sure, driving skill is important, but once a person learns how to drive, his/her behavior nearly always determines whether or not s/he drives accident free."



TRAINING & EVENTS



August/September/October, 2009

The Risk Pool is “on the road” to visit with member counties.

October 2009

10/19/09—10/21/09—Governance and Leadership Conference, AGRIP, Seattle

October 2009—March 2010

The Risk Pool is offering five opportunities to attend Comprehensive Public Records Officer Training and Certification. Please see our website at www.wcrp.info ([Training](#) tab) for a complete list of the dates and locations. (See also page 1 of this issue for more class details.)

November 2009

11/4/09 - 11/6/09—WCRP Autumn 2009 Conference and Board of Directors Meeting, Red Lion Hotel Columbia Center, Kennewick

Training coming up in January 2010—April 2010:

1-1/2 day Management & Supervisory Training will be held in 20 county locations! You can look at the entire schedule of dates and locations at www.wcrp.info ([Training](#) tab), as soon as the schedule is confirmed. (See also page 1 & 2 of this issue for more class details.)

March/April 2010

WCRP Spring Conference and Board of Directors Meeting, date and location TBD

July 2010

WCRP Summer Conference and Annual Board of Directors Meeting, date and location TBD

You can get more information, access driving directions, and register for classes and events
at:

www.wcrp.info