



County Connection

News from the Washington Counties Risk Pool

September/October 2010

2010-11 TRAINING SCHEDULED

COLLISION INVESTIGATION:

October 29, 2010; Fife School District 417, Admin Bldg
December 3, 2010; Spokane County Sheriff's Training Center

During this workshop, you will learn how evidence is identified and recorded at a collision scene utilizing The Crash Investigation or "Haddon" Matrix which documents the human, vehicle and environmental factors in a collision; collision photography; cold and hot shock lamp analysis; Event Data Recorders (EDR, also known as the "Black Box"); and determining speeds from skid marks. The instructor, Spokane County Detective **David Thornburg**, is a respected and certified presenter in the collision investigation arena.



CONDUCTING EXCELLENT PERFORMANCE EVALUATIONS:

7 Locations and Dates in February and March 2011

Performance evaluations are an essential step in creating a positive, efficient workplace. Most employment law related cases can be avoided or successfully defended if performance reviews are conducted regularly and performance and conduct deficiencies are properly documented and discussed. This class will provide attendees legal and managerial guidelines for conducting performance evaluations. Model performance evaluation policies and forms, and strategies for documenting and completing evaluations will be provided. The Risk Pool is happy to announce **Connie Poulsen** and **Michael Bolasina** will teach this class. (2 CLE Credits)

EMPLOYMENT LAW DO'S AND DON'TS:

2 Locations and Dates in 2011

This class provides more in-depth analysis of the legal issues presented in last year's Management and Supervisor Training. It will focus on the issues that arise in employment related lawsuits and how to best prepare for and defend them. The presentation will include discussions of actual cases and court decisions. Many of you who have previously attended Management and Supervisory Training will appreciate that **Michael Bolasina** is back to teach this more detailed class on employment related legal issues. (CLE credits requested.)



The 2010-11 Training Schedule continues on Page 3.



2010 Autumn Conference and Board Meeting

WHEN: Wednesday—Friday, November 3-5, 2010

WHERE: The Davenport Hotel, Spokane. Occupying a full city block in downtown Spokane, this 13-story landmark hotel first opened in 1914 and was reopened in July 2002 after a \$36-million renovation that restored its ornate sky-lit lobby, carved masonry beams, and gilded woodwork. Set downtown amid arts, business, and shopping districts, it is now listed as a National Trust Historic Hotel of America and is a member of Historic Hotels of America.

CONFERENCE REGISTRATION: Log on to the WCRP homepage (<http://www.wcrp.info>) and click on the “Events & Training Calendar” link in the upper left column, then on to the “Online Registration Form” in the middle. From the “Events” drop-down, select “2010 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.

LODGING (if needed): A block of overnight rooms at the hotel has been set aside for Wednesday and Thursday nights for a special “single” rate (\$86 + T&F) or “double” rate (\$96 + T&F). To register, you can go to 509-455-8888 or 800-899-1482. The block will remain available through Wednesday, October 20th.

SCHEDULE: The conference schedule includes:

Wednesday, November 3rd:

10:30 am—5:30 pm - Conducting Excellent Performance Evaluations (lunch provided during training). 2 CLE credits

Evening: Nothing formal planned.

Thursday, November 4th:

8:30 am—Claims Administrators training, electronic claims reporting

9:15 am—Roundtable begins, with Introductions

9:30 am—Speaker Keller Allen: Employment Liability, including key U.S. and Washington Supreme Court employment law cases in 2010 (CLE credits requested.)

10:30 am—15 minute break

10:45 am—Speaker Mike Patterson: “Anti Slapp Amendment and Litigation and Discovery Tactics” (CLE credits requested.)

Noon - Luncheon

1:15 pm—Roundtable continues, if needed, with group breakouts

2:30 pm ~ 5:30 pm—Board Work Session

Evening: Nothing formal planned.

Friday, November 5th:

8:30 am ~ Noon—WCRP 2010 Autumn Board of Directors Meeting

Executive Committee

2010/11 President

Marilyn Butler, Skamania County

2010/11 Secretary/Treasurer

Steve Bartel, Spokane 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

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Member Services

David Goldsmith, Member Services

Jill Lowe, Loss Control Coordinator

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

To receive by email, send your email address to claire@wcrp.wa.gov or call (360) 292-4480. Got story/photo ideas? Please submit them to the email address above.

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**WASHINGTON COUNTIES
RISK POOL**

Created by Counties for Counties



TRAINING NEWS



The 2010-11 Training Schedule, continued from Page 1.



RIGHT OF WAY ISSUES:

Thursday, March 24, 2011—Suncadia Lodge, Cle Elum

This presentation will occur during the 2011 WCRP Spring Conference Roundtable. **Dale Kamerrer** of Law, Lyman, Daniel, Kamerrer & Bogdanovich, P.S. will speak on the topics of Right of Way, Franchise Agreements, and Mowing and Utility Pole Accidents and Responses. Dale's practice is focused on the defense of cities, counties, and other governmental entities in a variety of matters, including land use actions and claims.

(CLE credits requested.)

MANAGEMENT & SUPERVISORY TRAINING:

Five locations in 2011:

- Spokane County
- Yakima County
- Chelan County
- Lewis County
- Skagit County

Managing a workforce indeed poses challenges but also rewards. Seasoned instructors with real workplace experience help navigate both veteran and newly assigned managers/supervisors through this curriculum, addressing issues public-sector managers/supervisors already face, and how to constructively hone their skills in many areas. Topics include Leadership and Supervision; Communications; Managing Time and Priorities; Dealing with Problem Employees; Public Sector Ethics; and Avoiding/Responding to claims of harassment, bullying, discrimination and potential employment-related liability. Instructors **Connie Poulsen** and **Michael Bolasina** are back to teach this class, as they did last year.



Registration for classes will open in early November!

Training dates, times, and locations are listed on the WCRP website, along with class information and driving directions. If you do not see a class listed, please continue to check the website regularly for updates.

www.wcrp.info



Jill Lowe, Loss Control Coordinator

Lexipol Daily Training Bulletins: Free Access To All WCRP Member County Law Enforcement Officers Interested In Using This Training Tool

Law enforcement officers in Washington State are required to receive a minimum of 24 hours of in-service training per year. For many counties, this requirement has become onerous due to cuts in training budgets and staff coverage.

Law enforcement related claims comprise a significant percentage of risk pool reported cases. Law enforcement, like public works, performs work that poses higher risk than most other county departments combined. For this reason, the Risk Pool's reinsurance company has agreed to provide \$50,000 toward training that is aimed at preventing law enforcement related claims and suits. The WCRP Board voted in August to provide the additional \$15,000 needed to ensure that law enforcement officers in every member sheriff's office has **free** access to this excellent training tool.

Lexipol, a company dedicated to law enforcement risk management, provides daily, on-line training (Daily Training Bulletins). The bulletins are scenario-based and delivered 365 days per year. When officers log into Lexipol's training system, they are presented with a six minute exercise with a brief scenario illustrating real world practical application on specific Washington state based requirements. Each training session is logged into a database and can be used to document in-service training.

Counties do not need to subscribe to other Lexipol services in order to receive the Daily Training Bulletins. Use of the bulletins will provide all of the 24 in-service training hours required of law enforcement personnel.

Go to the Lexipol website at <http://www.lexipol.com/default.asp?contentID=29> to

learn more about the bulletins or give me a call at 360-292-4492.

Municipal Risk Pool Solvency

The Risk Pool recently participated in a workshop titled "Municipal Risk Pool Solvency." Not exactly a catchy subject but certainly an important one to all of our members. Thirteen representatives of the WCRP Executive Board and staff attended the workshop which was sold out to a full house of 74 attendees.

Shannon Stuber who oversees the fiscal health of Washington State risk pools for the Office of Financial Management began the program by discussing the regulatory foundation of pools, risk pool governance guidelines and the newly revised standards that govern risk pool operations. James Marta and Dave Becker, nationally recognized certified public accountants and experts on risk pool solvency, discussed the critical items to look for when assessing solvency of risk pools. Following lunch, our own actuary Kevin Wick of Price Waterhouse Coopers discussed trends, patterns and abnormalities to look for in financial benchmarking. The day ended with a panel presentation.

There were several important take-aways:

1. Don't hesitate to ask questions when it comes to your Pool's financial health.
2. From Shannon Stuber on the regulatory required 70% Confidence Level: *"70% should never be the target. This is the bare minimum to keep operating in a safe and sound manner."*
3. The Secret to Stability:
 - Collect enough money.
 - Prevent losses from happening (Loss Control and Training).
 - Reduce losses through effective claims management.
 - Maintain membership and capital.
4. And, last but not least: What pool members want is the lowest rate. What pool members need is rate stability. To provide rate stability, well, go back to #3.

(Continued on page 5)



(Jill Lowe, continued from page 4)

Regarding Training

Dates and locations of all of the training workshops mentioned in this newsletter will be announced at the Autumn meeting in Spokane on Thursday, November 4. At that time, on-line registration will be open.

While the full workshop lineup is truly awesome, I want to bring to your attention the workshops on "Conducting Excellent Performance Evaluations." Each and every one of you can make a

difference in your county by encouraging and conducting performance evaluations. Please plan to attend one of the workshops near you and take the time to truly understand how performance evaluations can positively shape your workplace. This is my personal challenge to you.



HELPLINE QUESTIONS OF THE MONTH, cont.

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the inquiry): <http://www.eeoc.gov/policy/docs/accommodation.html>. Also keep in mind that if the employee's performance slips or she engages in misconduct or a policy violation, the employer should not assume that her medical issue caused it, nor must the employer tolerate unsatisfactory performance or conduct merely because the employee has previously disclosed a medical condition. Indeed, while the fact of an employee's disability protects the employee against unfair treatment or discrimination in the workplace, it does not entitle the employee to any treatment that is better or more preferential. For specific guidance in managing performance and conduct of a disabled employee within the confines of the Americans with Disabilities Act, should this become an issue, please see: <http://www.eeoc.gov/facts/performance-conduct.html>.

Source: HELPLINE for WCRP Members, www.hrhelpline.com/wcrp, October 2010

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Winning Puns... just because...

- 1 . A vulture boards an airplane, carrying two dead raccoons. The Stewardess looks at him and says, "I'm sorry, sir, only one carrion allowed per passenger."
- 2 . Two fish swim into a concrete wall. The one turns to the other and says, "Dam!"
- 3 . Two Eskimos sitting in a kayak were chilly, so they lit a fire in the craft . Unsurprisingly it sank, proving once again that you can't have your kayak and heat it too.
- 4 . Two hydrogen atoms meet. One says, "I've lost my electron." The other says, "Are you sure?" The first replies "Yes, I'm positive."
- 5 . Did you hear about the Buddhist who refused Novocain during a root canal? His goal: transcend dental medication.



Helpline NEWS



Here are the latest Questions of the Month from the HelpLine for WCRP Members' HR Express Update:

September Question:

We have an employee on FMLA. She turned in a release to return to work, but she did not return or contact us on that date. I called her doctor and was told there was a later release on file and they faxed it to me. Should I have called the doctor? I felt it was the safest way to avoid charges of an unlawful discharge for failing to return on the original release date.

Response:

Ideally in this situation, the employer should seek to communicate with the employee, and not the employee's physician. In cases where an employee has provided a Certification from his or her health care provider in connection with taking FMLA leave that is incomplete or deficient, the FMLA Regulations permit an employer's representative (i.e., health care provider, human resources professional, leave administrator or management personnel) to contact the employee's healthcare provider directly to clarify or authenticate the medical certification.

In this situation, the employee's direct supervisor is not permitted to contact the healthcare provider. To our knowledge the FMLA Regulations do not otherwise address the issue of an employer directly contacting the employee's health care provider, and generally we discourage employers from doing so (most health care providers will not disclose information to the employer anyway). That said, in limited circumstances it may be advisable to contact an employee's doctor, such as in cases where an employee claims to have been seen in the doctor's office on a particular date/time, and the employer seeks only to verify that the employee in fact was there.

If an employee does not return to work as scheduled after an FMLA leave and does not contact the employer, going forward the best practice would be to attempt to communicate with and contact the employee, rather than attempting to glean information from his or her health care provider. In this case, you were able to learn from the employee's doctor that there is a new release date. If you have not done so already, we recommend that you contact

the employee to discuss her return to work on that date.

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October Question:

If an employee advises her supervisor/manager that she has been diagnosed with a medical condition (MS), but has not provided any documentation or advised that she is unable to perform her job, is there anything that HR must do? The supervisor did advise her that she may want to see HR if she has any questions, however, she has not done so. Also, she does not have any personal/vacation time remaining for the year and this condition.

Response:

If the employee in question has merely disclosed her medical condition, but has not requested a reasonable accommodation, and if it is not obvious that she needs one, the employer should simply continue to treat her as it would any other employee, and as it would have treated her had she never made known her condition. Unless and until the employee requests a reasonable accommodation, or it becomes clear to the employer that she needs one to perform essential functions of her job, the best thing to do is to just ignore the fact that she has any disability at all.

Treating the employee differently (better or worse) can create exposure to a disability discrimination claim and is ill advised. To the extent she subsequently seeks reasonable accommodation or the employer, based on objective evidence (and not rumor or speculation), reasonably believes that she may require one in order to perform essential functions or to prevent a direct threat, at that point the employer can and should explore with the employee what kind of accommodation she needs in order to be able to perform essential job functions, and whether such accommodation can be provided without undue hardship to the employer.

The following guidance published by the EEOC may assist you in addressing reasonable accommodation and undue hardship, should it subsequently become an issue (it does not appear that it is now, based on

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Disaster Preparedness—Supply Kit

It's that time of year again when bad weather and other possible hazards get us to thinking about disaster preparedness. You may need to survive on your own after a disaster. This means having your own food, water, and other supplies in sufficient quantity to last for at least three days. Basic services such as electricity, gas, water, sewage treatment, and telephones may be cut off for days. You probably will not have the opportunity to shop or search for the supplies you need.

FEMA has published an in-depth guide to citizen preparedness titled Are You Ready? In the guide, FEMA recommends the following items be included in a Basic Disaster Supply Kit:

- Three-day supply of non-perishable food.
- Three-day supply of water—one gallon of water per person, per day.
- Portable, battery-powered radio or television and extra batteries.
- Flashlight and extra batteries.
- First aid kit and manual.
- Sanitation and hygiene items (moist towelettes and toilet paper).
- Matches and waterproof container.
- Whistle.
- Extra clothing.
- Kitchen accessories and cooking utensils, including a can opener.
- Photocopies of credit and identification cards.
- Cash and coins.
- Special needs items, such as prescription medications, eye glasses, contact lens solutions, and hearing aid batteries.
- Items for infants, such as formula, bottles, and pacifiers.
- Other items to meet your unique family needs.

Think about warmth. It is possible that you will not have heat. Think about your clothing and bedding supplies. Be sure to include one complete change of clothing and shoes per person, including:

- Jacket or coat.
- Long pants.
- Long sleeve shirt.
- Sturdy shoes.
- Hat, mittens, and scarf.
- Sleeping bag or warm blanket (per person).

Be sure to account for growing children and other family changes.

Just as important as putting your supplies together is maintaining them so they are safe to use when needed. Here are some tips to keep your supplies ready and in good condition.

- Keep canned foods in a dry place where temperature is cool.
- Store boxed food in tightly closed plastic or metal containers to protect them from pests and to extend shelf life.
- Throw out any canned goods that become swollen, dented, or corroded.
- Use foods before they go bad, and replace them with fresh supplies.
- Place new items at the back of the storage area and older ones in front.
- Change stored food and water supplies every six months. Be sure to write the date you store it on all containers.
- Re-think your needs every year and update your kit as your family needs change.
- Keep items in airtight plastic bags and put your entire disaster supplies kit in one or two easy-to-carry containers, such as an unused trashcan, camping backpack, or duffel bag.

The need to prepare for disasters is very real; disasters disrupt hundreds of thousands of lives every year. Each disaster has lasting effects, both to people and property. Being prepared can reduce fear, anxiety, and losses that accompany disasters.

To read more about the Be Ready Campaign, you can go to www.ready.gov or www.fema.gov.



TRAINING & EVENTS



October 29, 2010

9 am—3 pm, **Collision Investigation**, Fife School District 417, Administration Office. You may register online at www.wcrp.info and click on the Training link.

November 3, 2010

10:30 am—5:30 pm, **Conducting Excellent Performance Evaluations**, Davenport Hotel, Spokane. This exclusive training opportunity is offered to representatives from each member county, preceding the Autumn Conference. Lunch will be provided.

November 3-5, 2010

WCRP 2010 Autumn Conference and Board of Directors Meeting, Davenport Hotel, Spokane, WA. See page 2 for more conference and registration information.

December 3, 2010

9 am—3 pm, **Collision Investigation**, Spokane County Sheriff's Training Center. You may register online at www.wcrp.info and click on the Training link.

February-March, 2011

Conducting Excellent Performance Evaluations will be offered in 7 locations throughout the state. Locations and dates to be announced.

March 23-25, 2011

WCRP 2011 Spring Conference and Board of Directors Meeting, the Lodge at Suncadia, Cle Elum, WA. **Right of Way Issues** training will be offered during the Conference Roundtable. Topics included in the training are model franchise agreements, handling roadway claims, and conducting investigations in the right of way.

April 5-7, 2011

The Risk Management for Public Entities 2 day course review and one day exam will be offered. Contact Jill Lowe at jill@wcrp.wa.gov to register.

May, 2011

Employment Law Do's and Don'ts training will be offered twice. This class will provide a more in-depth analysis of the legal issues presented during the Management and Supervisory Training course. Dates and locations to be announced.

May-June 2011

Management & Supervisory Training will be offered five times during the months of May and June in Spokane, Yakima, Chelan, Lewis, and Skagit counties. Please refer to page 3 and the website for more information.

July 20-22, 2011

WCRP 2011 Summer Conference and Annual Board of Directors Meeting, Marcus Whitman Hotel, Walla Walla, WA.

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