







3 Parts of RISK



- **LIABILITY** – who was at fault and who gets sued. Person or organization. Organization’s leaders and officers? Partner groups. Follow the money.
- **EXPOSURE** - What your organization does and how it does it. Door – through – door service has more exposure than curb-curb service. Changing a client’s lightbulb has more risk than taking their trash out.
- **INSURANCE** – more on that later



VILLAGES SUMMIT – RISK MANAGEMENT 101

What do we do about Risk?

IDENTIFY IT

- What could go wrong?
- How can we prevent it?

PLAN FOR IT

- What happens if something does go wrong?
- How are we going to pay for it?



VILLAGES SUMMIT – RISK MANAGEMENT 101

What do we do about Risk?

LIMIT IT

- **Risk Avoidance** – cancel services or programs where the risk outweighs the benefits.
- **Risk Sharing** – transfer the consequence of risk to another party by contractual agreement.
- **Risk Modification** – change how you do business to reduce risk.
- **Risk Transfer** – purchase insurance to cover the consequences.



VILLAGES SUMMIT – RISK MANAGEMENT 101

Risk Avoidance

The Village of XYZ avoided risk by never letting their volunteers perform any services for anyone.

Risk Sharing

The Village of XYZ shares risk by signing an agreement with the XYZ Connection who provided insurance some coverage for the Village Volunteers.



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Risk Modification

ORGANIZATION/INCORPORATION

- Incorporated groups have more legal protections than non-incorporated groups.
- Volunteers and organizers **MAY** have limited protection in MD Good Samaritan laws and the 1997 Volunteer Protection Act (*with some conditions and exceptions*).
- Bylaws/Articles of Incorporation and Indemnification for officers, directors and volunteers.



VILLAGES SUMMIT – RISK MANAGEMENT 101

Risk Modification

POLICIES & PROCEDURES

- Volunteer Manuals
- Waivers and Indemnification
- Job Descriptions
- Financial Management
- Emergency Procedures
- Property and Security



“Locks keep honest people honest”
Sign on the equipment cage for the Grateful Dead



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Risk Modification

TRAINING

- Is your training sufficient? The more, the better.
- Do you require follow-up training and attendance at continuing training opportunities?
- Job specific training – driving a senior, changing a lightbulb, programming the VCR.
- What about BBP? Emergency Procedures?



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Risk Modification

SCREENING & BACKGROUND CHECKS

- Required in more instances
- Minimum would be “Level One” criminal search with check against Sex Offender Registry
- 3 year Motor Vehicle record check
- Then, what are your policies to accept the volunteer, based on the results?

But it was only 4 points and a misdemeanor...




VILLAGES SUMMIT – RISK MANAGEMENT 101

Risk Transfer

INSURANCE

- Can you get it? Do you have it?
- Do you need it?
- Do you have the right kinds?
- Do you have enough?



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Risk Transfer

INSURANCE: Do you need it?

- Well, yes. In fact, the national Volunteer Protection Act requires that a group has "Liability insurance at a specified level" to protect its volunteers under the act.
- Unincorporated groups are at the mercy of their volunteer's personal insurance (auto, home, property).




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Risk Transfer

INSURANCE: Do you have the right kinds?

- General (umbrella) Liability
- Director and Officer
- Theft
- Property
- Extra volunteer coverage
- Giving rides to seniors requires additional insurance...



VILLAGES SUMMIT – RISK MANAGEMENT 101

Risk Transfer

INSURANCE: Do you have enough?

- There is never enough.
- Just make sure you get what you need, and UPDATE your broker with your programs and how many volunteers every year.
- If they don't know, they can't make sure you are covered.



VILLAGES SUMMIT – RISK MANAGEMENT 101

Risk Transfer

REMEMBER:

You can move to Seattle and never buy an umbrella, but chances are that you will eventually get wet.




VILLAGES SUMMIT – RISK MANAGEMENT 101

Good Samaritan Laws

THE MYTH OF PROTECTION:

“Volunteers who are serving smaller, more informal organizations are at greatest risk, because the lack of sophistication and resources of the nonprofits they serve removes the protection the volunteers would otherwise enjoy under the state volunteer protection law.”




VILLAGES SUMMIT – RISK MANAGEMENT 101

Good Samaritan Laws

NATIONAL:

- 1997 Volunteer Protection Act passed to protect volunteers.
- There are REQUIREMENTS and EXCLUSIONS.
- State law can preempt the Federal law in some ways.

MARYLAND:

- In Maryland charitable immunity applies only if an organization’s assets are held in trust (they are an incorporated 501c3) and the recovery is limited to their insurance policy limits.



VILLAGES SUMMIT – RISK MANAGEMENT 101

Good Samaritan Laws

NATIONAL: REQUIREMENTS

- The nonprofit retaining the volunteer carry **liability insurance** at a specified level.
- The nonprofit amend its articles of incorporation or bylaws to specifically **indemnify** volunteers.
- Certain volunteers receive **training** from the nonprofit.
- Volunteers receive prior **written authorization** in order to act.



VILLAGES SUMMIT – RISK MANAGEMENT 101

Good Samaritan Laws

NATIONAL: COMMON EXCLUSIONS

- Volunteer conduct found to be willful or wanton.
- Gross negligence on the part of the volunteer.
- Wrongful acts committed while operating a **motor vehicle**.
- There may be others – check state law.



VILLAGES SUMMIT – RISK MANAGEMENT 101

ABOUT US

The Senior Connection is dedicated to providing programs and services that preserve and foster independence, mobility and quality of life for seniors.

Over the last 20 years, the Senior Connection has provided more than 250,000 free services to over 7,000 senior citizens in the region, with the help from more than 1,800 community volunteers.

www.seniorconnectionmc.org



VOLUNTEER RECOGNITION AND AWARDS CEREMONY

USEFUL LINKS

<http://www.nonprofitrisk.org/>

<http://www.nprcenter.org/>

<http://www.nonprofitrisk.org/downloads/state-liability.pdf>

http://www.publiccounsel.org/tools/publications/files/risk_management.pdf



VOLUNTEER RECOGNITION AND AWARDS CEREMONY



About This Resource 2014

- **Fact Sheet Introduction**
Risk as a critical issue in volunteer driver program planning and operation
- **Volunteer Driver Program Risks**
Lists ten types of risk faced by volunteer driver programs and their drivers
- **Liability**
Discusses the concept of liability and outlines three types of liability
- **Exposure**
Discusses the concept of exposure and outlines four methods of limiting risk
- **Insurance**
Discusses the purpose of insurance and identifies insurance options.
- **Transportation Risk Review**
Provides an exercise in which the reader can select methods for reducing risks in organizing or operating a volunteer driver program.

For More Information Visit

<http://nationalvolunteertransportationcenter.org/>

**NVTC is an Initiative of
CTAA with offices in
Washington, DC and
Albuquerque, New Mexico**

Risk & Risk Management

Providing transportation will always pose risks related to property damage or physical injury and risks for people who volunteer to drive and for organizations that involve volunteer drivers. Such risks (related to the passengers, the sponsor, the community, and the drivers themselves) must be considered in planning and operating a volunteer driver program.

Volunteer Driver Program Risks

- *the driver and/or passenger will be injured getting to or into the vehicle*
- *there will be a crash*
- *the driver and/or rider will be injured in a crash*
- *property will be damaged in a crash*
- *the driver and/or passenger will be injured at the destination*
- *a passenger or family member (or driver) will initiate a lawsuit for damages*
- *the property or reputation of the sponsor will be jeopardized*
- *the income or financial assets of the sponsor will be jeopardized*
- *the insurance premiums will increase because of volunteer driving*
- *the insurance policy will be cancelled in the event of a fall, crash or litigious action against the sponsor*

It is important that volunteer driver programs give special consideration to liability, risk, and exposure in the planning and operation of transportation services and if possible, explore methods of limiting exposure for the program and the volunteer drivers who provide rides to passengers.

Liability

Liability is a legal obligation; something owed to another. Volunteer driver program risk relates to potential responsibility for the actions (or inactions) of drivers or the potential for harm suffered by passengers. According to the Nonprofits' Insurance Alliance of California (NIAC), there are three rather general classifications or types of liability. Legal obligations related to any of these classifications can jeopardize the good will and/or assets of the program sponsor, and perhaps even the volunteer driver.

Three Types of Liability

- Direct liability - when an organization or individual is held responsible for its actions or inactions (e.g. failing to supervise the volunteer properly).
- Indirect or vicarious liability - when an organization is held responsible for harm caused by persons acting on its behalf (e.g. negligence of a volunteer driver who damages a parked car while exiting a parking space).
- Strict liability - when responsibility for harm is automatic and finding negligence or misconduct is not required (e.g. the volunteer driver is driving under the influence of a illegal substance).

All types of vehicles, drivers, times, and locations create a certain degree of exposure to potential liability when transporting people.

Exposure

Such exposure includes the potential for liability related to property damage or bodily harm in the course of transporting a passenger. Adding "supportive transportation" in the form of door-to-door, door-through-door, or stay-at-the destination assistance tends to extend the exposure and potential liability for property damage, physical injuries to the passenger (or driver), or even physical abuse to passenger in the course of providing assistance to or into the residence or destination. According to many transportation providers, the fact that some insurers do not understand or appreciate the practice of providing transportation assistance (especially when it involves going door-through-door) can relegate it to a "don't ask – don't tell" relationship with the insurer. This is, however, not an appropriate or safe practice, and the Beverly Foundation does not endorse neglecting risk management strategies or practices.

Risk

Four Risk Limiting Strategies

- **Risk Avoidance:** canceling a service or an activity in which the perceived risk outweighs the benefit.
- **Risk Modification:** adjusting policies, plans, and procedures to reduce potential loss to a level deemed acceptable to the organization.
- **Risk Sharing:** partially transferring an activity or consequences of a risk to another party by contractual agreement.
- **Risk Transfer:** purchasing insurance thus making it possible to accept all or part of the risk and preparing for the consequences if a risk scenario should occur.

Risk Limiting Examples

What follows are four examples of volunteer driver program strategies for limiting risk.

#1 Avoidance. A well known paratransit service sponsored a volunteer driver program. At one time, the drivers provided door-through-door services to passengers, but its insurance broker required the program to sign an agreement that drivers would not go through-the-door to help passengers. The program signed the form and required volunteers to sign a similar form, thus eliminating what its insurer believed was a high-risk service.

#2 Risk Modification. A successful volunteer driver program modified their organizing methods. The design included the following methods: (1) riders recruit their own drivers; (2) the agreement for travel is between the rider and the driver and not the program; (3) the program does not schedule rides; and (4) reimbursements for mileage are paid to riders who then give the reimbursement to the drivers. Thus, the program organized its activities in a way that limits potential exposure to liability.

#3 Risk Sharing. There is a very large modified brokerage that includes a volunteer driver program and is organized to provide “one-stop shopping” for riders. The program determines which transportation service is best for the rider (based on physical and mental criteria), and in addition to providing some rides, it also funds other transit services (which use their own vehicles, drivers, and insurance) to provide rides.

#4 Risk Transfer. A popular *Faith in Action* volunteer driver program recruits volunteer drivers, provides rides primarily to older adults in a specific area, and purchases insurance to cover any potential loss.

Insurance

According to the Community Transportation Association of America (CTAA), insurance is the biggest and most expensive challenge faced by volunteer driver programs. As a result, prospective sponsors express concerns about obtainable and affordable insurance. Indeed, insurance can be difficult to obtain (especially when programs provide transportation support or assistance and premiums for vehicle and volunteer driver coverage may increase every year. However, the fact that insurance is subject to state regulation, and states vary widely in their legislation and approach to insurance means that volunteer driver programs in some states may have little difficulty securing and paying for insurance, while programs in other states may face a variety of challenges.

It is important to add that volunteer driver programs, for the most part, pose little risk to the driver, the passenger, or the sponsoring and administering program. Volunteers Insurance Service Association, Inc. (VIS) provides insurance (through CIMA) to non-profit organizations that administer a volunteer driver program. Why does VIS insure volunteer driver programs? There is considerable data on the low rate of claims by volunteer driver programs for crashes or activities that result in property damage or bodily injury. Thus, if a volunteer driver program practices good risk management, it may be eligible for insurance coverage.

Transportation Risk Review

A good risk management strategy includes: (1) understanding risks and putting into place appropriate, systematic, day-to-day operating policies and procedures; and (2) establishing training programs that control risk and improve performance. In other words, there are a number of strategic actions that volunteer driver programs can and should take to protect themselves and their drivers. The list below includes twenty methods that can be used to manage risk. Before you begin your selection, you may want to take a look at:

avoidance, modification, sharing, and retention.

Now, check the activities you might undertake to limit your exposure.

- Check and document valid insurance policies for each volunteer driver.
- Check and document valid driver's license for each volunteer.
- Check and document driving record of volunteer drivers.
- Arrange for criminal record check on all volunteer drivers.
- Train drivers in providing assistance to riders.
- Train drivers in first aid and CPR.
- Train drivers in "senior sensitivity".
- Train drivers on traffic laws and safe driving procedures.
- Train drivers in "behind the wheel" safe driving.
- Provide guidelines to volunteer drivers in good vehicle maintenance.
- Prevent drivers from using their own vehicles.
- Prevent drivers from going door-to-door.
- Prevent drivers from going door-through-door.
- Prevent drivers from helping riders who use wheelchairs.
- Prevent drivers from providing assistance at the destination.
- Prevent drivers from providing rides during rush hours.
- Prevent drivers from providing rides at night.
- Prevent drivers from making multiple stops.
- Prevent drivers from going beyond city boundaries.
- Prevent drivers from allowing a spouse or friend to accompany them.

If you checked the first ten items, you identified methods for limiting risk by screening, training, and information. If you checked the second ten, you identified methods for limiting risk with program policies that prevent drivers from providing services. Such decisions can also limit the service and assistance that volunteer driver programs generally are asked to provide. So take care to ensure that the following comment from a transportation service provider in rural America does not apply to you:

"You won't have any risk if you build a fence and corral all the vehicles inside."

The National Volunteer Transportation Center is an outgrowth of the efforts of each of its founders, especially the Beverly Foundation, to support existing and emerging volunteer transportation programs and services across the country. The Center opened with a database of more than 700 volunteer transportation throughout the 50 states plus the District of Columbia and Puerto Rico. It also includes technical materials related to the planning, organization, and operations of volunteer transportation. Perhaps its most important asset is the wisdom experience, and expertise of its founders who as a group bring the Center a long history of research, direct service delivery, risk management, and insurance, specialized software, and education.