

Risk Management and Liability Concerns

One of the first questions village planning groups are faced with is “what about liability?” Even established villages find they need to revisit this issue after a certain time to ensure they are making the best choices for their village as they evolve.

When considering the various options this chapter covers, we suggest that instead of viewing liability and risk management as a necessary evil, you see this as an opportunity to build an organization that operates with integrity. Your village has better chances to gain members and volunteers’ trust if you show them that you take them seriously and that they are protected and cared for. Risk management helps ensure the accountability and stability of your organization. It only takes one simple lawsuit to ruin a small village. Although the chances are small, you do not want that to happen.

Before delving into the various elements of risk management, the writing group would like to point out that some villages choose not to have background checks or carry volunteer insurance. These villages tend to be very small. People really do know each other intimately well and there is a high-level of trust among them. Much in the same way that you would not ask your close neighbor who is helping you with hauling a heavy box up the stairs to go through a background check, these villages assume close relationships that make this kind of formal structure irrelevant, costly, and unnecessary. Section three in this article reviews the legal protections given to

Content:

1. Risk Management basic terms
2. Liability considerations
3. Statutory Protection
4. Background checks and other vetting choices
5. Risk mitigation
6. insurance coverages and options

volunteers as well as the potential risks this choice carries.

1. Basic terms:

Liability: legal and fiscal responsibility, which can concern both legal and criminal law. Legal liability can arise from harm or loss caused to someone (Tort).

Risk Management: is the identification, assessment, and prioritization of risks followed by coordinated and economical application of resources to minimize, monitor, and control the probability and/or impact of unfortunate events.

Vetting: The etymology of the word comes from horse racing where a horse must be check by a vet before a race. Now it applies to checking someone's background before offering them employment (for pay or not) or contracts.

Background checks: The process of looking up criminal records to vet people. There are many private companies that offer background checks for a fee. Background checks look at different records and range from simple, local traffic violations databases to a comprehensive, national search in all databases for all sorts of criminal records. Not all backgrounds check give you the same level of information and your village needs to know what they are asking for.

Insurance: a risk management tool. An insurance policy a village can purchase to cover the costs associated with any liability claim made on the village or a village volunteer.

Good Samaritan Law: A law that protects people who offer aide in a medical emergency situation. In Maryland, It does not explicitly cover volunteers in a typical village activity. Each state has different provisions.

2. Liability:

In 2012, Adrienne Buenavista produced a well researched [report under the American Bar Association](#). We strongly recommend you carefully read this document, since it answers many of the questions your community will ask you.

Locally, most villages have chosen to incorporate and develop a risk management component to their organization. This means that they vet their volunteers and purchase insurance to cover its activities.

[The National Village to Village Network](#) has many documents that pertain to risk management. You will need membership in the organization to access that. If you are in Montgomery County you can receive secondary membership through the Area Agency on Aging.

3. Good Samaritan law and other statutory protections:

The Good Samaritan Law is intended to encourage bystanders to come to the aid of a person at risk of harm. It exists in all states although with certain variations. The language of the law does not contain any indication that it will protect volunteers from liability when performing routine service under village activities. Although some states will have statute to protect volunteers from liability, this specific law is not intended to protect villages. Buenavista discusses volunteer liability and protection in her article.

Some states limit the amount of liability nonprofit may incur. You may want to seek state-specific information. In September 2016, Maryland State Attorney's Office staff, Jeff Myers presented an overview of Maryland state laws, provisions and recommendations. Additionally, this is a link to an overview of [volunteer protections in Maryland](#).

The bottom line for this part of the discussion is this: Even if you will be found not liable, anyone can still sue you. It is an unpleasant prospect and the best way to protect your village is the obtain liability insurance at least to cover the cost of legal representation.

4. Background checks and other vetting choices:

Background checks come in many shapes and sizes. In 2015, the Jewish Council for the Aging's Village Rides program created a chart that outlines the various levels of background checks:

Search Type	Definition	Scope/Limitations
Social Security Trace	Associates S.S.# with addresses to verify individual and actual # issued by the social security administration	N/A
Statewide criminal search	Search from statewide repository-most crimes are in state the criminal lives. Reporting from all levels of crimes in that state including misdemeanors and pending cases. Checks all counties in the state of choice.	<ul style="list-style-type: none"> • One state at a time. • Limited to all states that have to report • Not limited to counties the person lived in
National Criminal Search	Multi- jurisdictional –criminal repository- Comprehensive search from various sources	<ul style="list-style-type: none"> • No law telling states they have to report to this repository. • Re-verification of potential hits (in person)- usually an additional charge • Cost effective/quick results • Strong on felonies/less information on misdemeanors
Federal Criminal Search	Searches federal records and jurisdictions for history of federal (committed on federal land)/interstate crimes.	<ul style="list-style-type: none"> • Not the same as Nationwide Criminal Search • Only searches 11 federal court districts in the U.S.

Sex offender registry	State/National sex offender registry	<ul style="list-style-type: none"> • Criminal's responsibility to register if moved out of state crime is committed
County Trace	Used primarily for states not required to report to a statewide repository or where state repository is unavailable (County search is mandatory)	<ul style="list-style-type: none"> • County specific • Can be limited to counties of residences • Pay individually per county or cost per (x) quantity of counties • County/state specific fees may apply
Motor vehicle records	Dates of any violations, revocations, suspensions	<ul style="list-style-type: none"> • By state of valid license only
Monitor Service *Criminal /arrest history update	Re-run every month for a year (1% do monthly monitoring)	<ul style="list-style-type: none"> • Only for national criminal not statewide criminal (due to cost and fees of statewide search)

The cost of background checks for nonprofit organizations ranges from \$17-\$40, depending on the thoroughness of the check and the going rate. There are many private companies that offer this service. The following are companies that Montgomery County villages use. This does not constitute endorsing of any of the companies: Coeus Global and Intellicorp. Online research may help you decide what company would be best for you. While the cost of one background check may not seem high, they do accumulate. Some villages give their volunteer the option to pay for their own background check (provided the company allows for each person to run their own background check). They found that 80% of the volunteers would agree to cover the cost.

5. Risk mitigation

Risk mitigation is comprised of a few elements: 1. training volunteers 2. On-going support and supervision 3. Screening of members 4. Setting expectations at appropriate levels.

1. Training: There are many volunteer training manuals available online. You do not need to reinvent the wheel. For Montgomery County villages, Chevy Chase at Home offers its training and volunteer manual free of charge. Programs such as JCA's Village Rides and The Senior Connection offer specific volunteer driver training. EveryMind's Friendly visitor program will help with training friendly visitors. Whichever way your village chooses to go about this, training is key to ensuring volunteers are safe and confident when working for the village members.
2. Support and supervision: Your volunteers need one or two people to serve as coordinators. The coordinators remain in contact with the volunteers, check in to see if there are any issues and troubleshoot when an issue does arise. This not only serves as a safety mechanism but ensures your volunteers are not burned out.
3. Member Screening: Before you accept someone as a member of your villages (or, when you do not have membership model, before you send a volunteer to a neighbor in need), make sure you understand the neighbor's level of need. It is not safe to send a volunteer driver to a person who needs two people to transport from his wheelchair to a car, for example. Screening ensures you are sending people to known and acceptable situations.
4. Setting Expectations: The people who receive the volunteer help must have a clear understanding of what they can expect from their volunteers and where the limits are. This is good customer service as well as an important risk mitigation component. Each village may have different boundaries and they may change over time.

5. insurance coverages and options

The world of insurance is complex. When purchasing an insurance policy, the broker will need to understand the size, function and risk exposure of your unique village in order to give you an exact quote.

Many villages, especially those who do not charge membership fees, state that insurance is financially burdensome. The average cost of insurance range between \$1,700-\$2,000 annually. If the Village has employees the insurance cost can be higher.

Locally, villages have been using either [CIMA](#) or [ANI](#) for their insurance products. Both specialize in nonprofits and offer competitive pricing.

Villages typically need the following insurance products: Directors and Officers (D&O), Volunteer general liability and Employee Insurance. Under volunteer general liability the main costs are drivers' insurance and sexual harassment.

In the winter of 2017 Montgomery County Villages came together to consider cost saving measures by working collaboratively. Although they found their numbers alone are not sufficient incentive for "group discount", there are other ways they can encourage brokers to offer a better price. However, in order to truly achieve a substantial cost reduction, villages need to form a nonprofit that can carry their insurance. For more information about this idea, please contact the [Village Coordinator](#).