



COP Leader Training: Risk Management



COP Risk Management Philosophy

- Participant Safety v. Loss Prevention

We prefer to take an attitude of taking care of our participants rather than one of protecting our bank account (CYAssets)

Risk Management



- Manage (assess, mitigate, warn, transfer)
- Orient – Make sure participants know what the risks are, that they must assume them & that there are no guarantees of safety
- Transfer (insurance)
- Ignore - Not a good way to manage risk!



Assessing Risk

- Activity – What are the possible risks? Ways to reduce them? Include errors in judgment, desire to please, adhere to schedule, disregarding gut feelings, fatigue, low blood sugar, dehydration, miscommunication...
- Participants – Unsafe acts - going too fast, not eating or drinking, wrong place at the wrong time, *Medical conditions they bring with them*
- Environment -Unsafe conditions-animals, terrain, weather, inappropriate clothing

Risk Management



- What can we do about these risks without changing the essential nature of the activity?
 - Educate participants
 - Warn of hazards
 - Screen participants
 - Change the Plan – ex. more bike accidents happen on left turns than right turns so unless there is a reason for riding a counterclockwise loop, go clockwise.

Participant Screening



Get the Right Participants for the Activity

- Give the best information you can about the planned trip so inappropriate participants can self-select out.
 - Anticipated level of difficulty – not “strenuous” but 10 mpd at a 3mph pace, 3,000’ of climbing and descent in 2 miles, etc.
- Ask about their experience, equipment, & *health*
- On trips where your first contact is at the meeting point, it is the New Guy you need to talk with (you were going to greet them anyway, right?)
- Try to guide people to an appropriate activity for them

The Release



- Get a signed liability release and waiver
 - Tell everyone to read and sign the release!
 - Hint - if you sign first and fill in all the info, most people will follow suit.
 - We want all the information requested in case we need to find the participant 2 years later.
 - Car license# is on there in case a person disappears from your trip. If their car is no longer in the parking lot, you don't need to go search for a missing person.
 - Legal size release is preferred, letter size better than nothing, both have the same release text give or take a few typos.
 - Turn into the office within 7 days of your trip either by mailing hardcopy, or emailing a jpg or pdf (must include the entire sheet of paper)

More on the Release



- One purpose is to inform people
- Failure to get it signed can result in insurance company opting not to cover us because you did not follow procedures. Now your own assets are on the line
- Notice of legal document – not misrepresented like “sign-in sheet”, not coerced,
- Who is covered? COP volunteers
- The COP Release includes:
 - **Waiver of right to sue** – person is giving up their right to sue. Best to get this signed in Ohio or be sure to state they will need to sign it when they join the trip. Some states (WV & Nat’l Parks) do not recognize this but do recognize....
 - **Assumption of Risk** – person is stating that they know and accept the risks, no outright guarantee of safety
 - **Indemnification Clause** – Ohio case law is that parent can sign away a child’s right to sue, person is agreeing to cover costs if they sue.
 - **Photo release** – note that this covers posting pics from your trip to a Cop Facebook page, but not to your own Facebook page.
 - **Jurisdictional Clause** – person agrees that if they sue, it will be here in Franklin County. They cannot shop for a jurisdiction with laws that will favor them.

Take Care of Incidents



- Take care of your people first
- Incident reports – use the COP Incident Report Form
 - used to track how accidents happen, what’s happening out there in the field.
 - lawsuit will be 2 years later – will you remember all the details?
- Serious injury? Notify Activity Leader (President if you can't find your activity leader) and COP Risk Manager as soon as you can
- Follow up, using the COP Incident Follow Up Form



Legal Duties

- Whether you are paid, a volunteer, or just said to a friend, “lets go for a ride, “ when you initiate an activity, you take on legal duties which include a Duty to:
 - Provide proper instructions.
 - Provide proper supervision.
 - Provide “safe environment” (physical & emotional).
 - Provide Healthcare/First Aid (within your level of training, but be trained to a level appropriate for what you are doing).
 - Enforce rules (if you have them, you have to enforce them so read your manual!).
 - See & Evaluate injuries – (watch your participants for signs of developing trouble).
 - Adequately Warn re: risks and known hazards.
 - Keep records.
 - Plan and act as a reasonably prudent person would.



Elements of a Successful Suit

1. There was a duty
 2. There was a breach of that duty
 3. There was an injury, loss or damages
 4. Caused by that breach of duty
- Good Samaritan and Volunteer Protection Laws will give you some protection if you have conducted yourself as a reasonably prudent person would.



Negligence

Negligence is the failure to act or provide care as a reasonably prudent person would in the same conditions with the same knowledge, experience, and background as you. Usually covered by the waiver.

The Insurance Co. is not obligated to cover you if the following kinds of negligence are involved. The Release/Waiver could be thrown out of court for:

- Gross Negligence – Negligence that is worse than standard negligence. i.e. *You knew your river guide drank a lot, you did nothing about it.*
- Willful and/or wanton - *you knew your river guide worked under the influence and you cared so little about the problem that you did nothing about it.*
- Intentional – You knowingly led someone into danger. i.e. *You bought the guide beer.*
- Negligence per se – the injury or loss happened while you were breaking the rules of a governing body *i.e. hitchhiking, camping illegally, no permit, running stop signs etc.* **You are automatically negligent in this case.**

Incident Paperwork



- The Incident Report—we want all of the information requested!
 - Why?
 - Easy to forget
 - law suits usually take a 2 years to materialize
 - want to have a starting point for tracking down people
 - What do we do with it?
 - Possibly send it to the insurance agent,
 - might be able to get a person financial assistance for medical bills
 - Track what's happening in our activities, how people are getting hurt. (catching wheels, hitting posts etc.)
- Incident Follow Up form – you would probably contact the person afterward anyway, but please document that you did so.
- Send all paperwork to the COP Office within 7 days



So what is a Reportable Incident?

- Any time you provide first aid or obtain help for such
- If it seems possible a participant might seek medical help in the future
- If property is damaged
- If a participant is dismissed from the group
- Any time a participant is unable to participate in normal trip activities for 24 hours or more due to injury or illness
- Any accident or near miss that could have resulted in Injury
- Any incident involving violence or threats
- Any time someone threatens or initiates legal action
- Leaders must exercise judgment in this respect, but,

When in doubt, fill it out!

Transferring Risk



COP has Insurance, including:

- General Liability – this covers you, the volunteer
- Excess Med policy (Un-reimbursed medical) — People tend to confuse this with medical insurance, so please don't mention it to participants – you may advocate to the Risk Manager if you feel it is appropriate. The final decision on whether to offer it is made by our insurance company.
- Property – some COP owned yes, participant owned no
- Auto – no. Your own Auto insurance is primary. If you are towing a COP owned trailer (boats), your own auto insurance is primary here also. By law, trailer liability follows the vehicle to which the trailer is attached.

Emergency Action Plans



- Emergency #s with you
- Assign what to do in emergency
- Preplanning and practice plus on the scene response
- Next of Kin communications – Honesty is best policy, never lie. Can say you don't have all the info. Help families of injured participants.
- Document – write down the obvious (use the incident report)
- Take care of other participants
- Watch “I’m sorry” or guilty feelings – legally, the words “I’m sorry” is an assumption of responsibility.

Reminder



Once you decide to be leader, you take on a legal obligation to do your job. That means you are expected to:

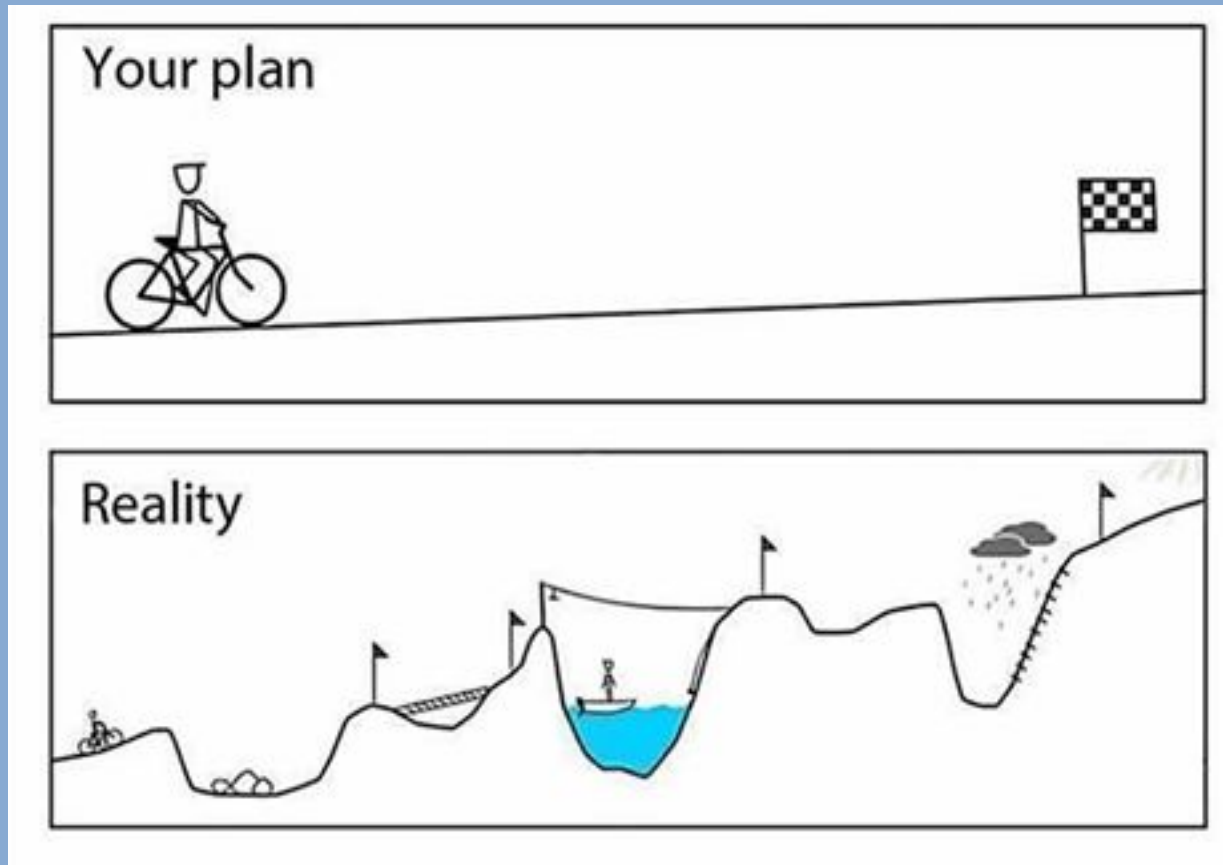
- act prudently
- think your trip through,
- make and implement good plans
- keep on top of the trip during its course.

The law does not care if you are being paid to lead or not, whether you call yourself a leader or coordinator; the duties are the same.

The 6 Ps: Prior Planning Prevents Piss Poor Performance



However...



Artist unknown – this was stolen off FaceBook