

## **Law Enforcement Risks for Public Entity Pools: Points to Ponder**

Several high profile law enforcement and school resource officer interactions across the United States – including those in Ferguson, Baltimore, Minneapolis, Cleveland, Chicago, South Carolina, and elsewhere – have focused public attention on policing tactics, use-of-force policies, body camera footage, and related law enforcement matters. Law enforcement risks are certainly not new to local government and school entities or their risk pools, but the nature of media attention and public scrutiny suggest value in continued focus on how best to inform and train public entities and their law enforcement agencies about these complicated risk areas.

AGRiP encourages public entity pools to revisit internal practices and member services specific to use-of-force, de-escalation techniques, community policing tactics, body camera practices, interactions with at-risk populations, and related law enforcement activities. A thorough review should include pool-offered risk management services, underwriting practices, reinsurance terms, and crisis communications (both internal and as offered to pool members).

As you review your pool’s services and coverage, it may be helpful to engage and coordinate as much as possible with statewide law enforcement associations, state law enforcement agencies, and law enforcement training academies or agencies. Talking with police administrators within your membership is also a good idea to be sure you are offering ideas and services that align with their needs.

Because the legal environment for law enforcement liability changes rapidly and may differ from state-to-state, pools are encouraged to find reliable legal resources who are up-to-date with law enforcement trends and issues to help review risk management programs and initiatives, coverage documents, and other aspects of the pool’s law enforcement risk response.

### Risk Management Services for Law Enforcement Agencies

Many pools offer a wide array of law enforcement risk management services to help public entities assess best practice policies, establish appropriate mandatory and voluntary training programs, evaluate equipment options, and more. Pools commonly help members conduct law enforcement risk evaluations in the form of surveys or checklists, provide access to training and/or “train the trainer” programs, publish model policies, onsite assessments, and templates, or otherwise coordinate member-to-member sharing of best practices.

It may be a good time to holistically review your pool's risk management service offerings and materials related to law enforcement training and practices, including the areas listed below. When doing so, consider your pool's programs and services alongside any state-mandated training requirements. Depending on your pool's membership, additional risk areas may also be important – this is just a starting list of ideas.

- Use-of-force policies, practices, standards, statutory requirements, case law, and training
- De-escalation (or pre-escalation) policies, practices, standards, and training
- Materials and training related to community-oriented policing or problem-solving policing
- Use of body cameras, dash cameras and related technology, and all accompanying policies, including storage and disposal of recorded data
- Effective law enforcement interactions with at-risk populations, such as the mentally ill, aged, those afflicted by addiction, and disabled individuals including the hearing impaired
- Crowd control techniques and risks
- Hiring, discipline, performance management, and termination practices within law enforcement agencies
- Documentation and report-writing specific to law enforcement activities and interactions, including use-of-force reports
- Public information rules, requirements, and best practices – appropriate for public information officers and those in law enforcement or public entity leadership roles
- Crisis communications and media relations for law enforcement and public entities
- Emergency management training and preparedness
- Corrections assessments
- Federal and state OSHA regulations and compliance

Finally, be sure to consider any workers' compensation implications for law enforcement officers. Unfortunately, use-of-force or other difficult law enforcement interactions can also result in officer injuries.

### Underwriting Practices

There is some indication that the commercial insurance markets are beginning to reevaluate underwriting guidelines for public entity law enforcement risk, taking heed from recent attention on high profile cases. For public entity pools, the risks associated with law enforcement and school resource officer activities is not new or surprising – pools have been working with their members cooperatively for many years to manage these risks, develop appropriate policies and standards, and provide associated resources.

As you go through normal coverage review activities, be sure to include targeted review of law enforcement-related language. Pools differ widely in how law enforcement coverage is structured and there may be other nuances important within your pool's unique membership – such as employment liability coverage, workers' compensation

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considerations, and so on. It's a good idea to involve many different perspectives in your review of law enforcement coverage. Consider inviting members of your risk management team, legal counsel, reinsurance partners, and law enforcement experts to help in your review.

It's also a good time to evaluate your pool's exposure and loss data relative to law enforcement activities, looking for opportunities to improve your understanding of law enforcement risks. And as your pool reviews its risk management services for law enforcement agencies, consider ways to simultaneously improve the information flow to your underwriting staff. It might be useful for underwriters to attend law enforcement risk management events or training for context. Be sure to provide the underwriting department with a comprehensive review of risk management resources offered by the pool, and be sure underwriters fully understand the law enforcement legal and regulatory standards in your state.

### Reinsurance Terms

Public entity pools should expect additional scrutiny and conversation with existing or prospective reinsurers (or excess insurers) related to law enforcement liability risks. Thorough analysis of your pool's underwriting data relative to law enforcement risks will be useful to inform these conversations. Pools will benefit from documenting law enforcement loss history and exposure data, as well as proactive risk management programs, training initiatives, partnerships with law enforcement agencies, and other methods to identify and control law enforcement risks within the pool's membership. And, be sure you can adequately articulate your state's regulatory and legal environment as it relates to law enforcement liability considerations.

As always, be sure you fully understand and appreciate reinsurance or excess insurance terms as they apply to your pool's collective law enforcement liability, employment liability, and law enforcement workers' compensation risks.

### Crisis and Media Communications

Crisis and media communications might come into play in several ways related to public entity or school law enforcement activities:

- A public entity or school may want to proactively communicate with residents or students about safety procedures and law enforcement presence during a planned event, such as a community-wide celebration or a scheduled protest.
- A public entity or school may want to share information during a law enforcement activity to enhance safety or provide instructions.
- If a law enforcement interaction (or a related legal proceeding) garners media attention, whether local or national, pool members may need assistance answering questions or interview requests. This could include law enforcement agency representatives, public entity managers, school administrators, legal representatives, or elected officials.

- A public entity or school might want to proactively communicate with media about certain law enforcement activities or court trial proceedings.
- Inquiries could be made directly to the pool about any of these matters as well.

Law enforcement interactions frequently result in highly visible litigation. It is important that a pool be as intentional with communications strategy as it is with its litigation strategy. Strategic litigation communication can help shape the ongoing reputation and the risk profile of member agencies. Some pools provide targeted communication consulting services to members to assure that litigation communication is well planned and implemented.

Crisis and media communications are important for sharing critical and timely information, responding to questions or inquiries, and managing law enforcement liability risks. Whether it's a law enforcement action with national media attention, a closely watched court trial in your region, or a front page story in the weekly local newspaper, chances are good that at some point a member of your pool will need crisis or media communications assistance, in addition to help with litigation communication.

Pools are encouraged to think about additional risk management services or programs, or other ways to help public entity and school members with crisis and media communications. Some pools offer these services directly or under outsourced contracts on behalf of members, either as part of the litigation management process or on a pre-loss basis. Other pools have developed crisis communications tools and templates, media communications training materials, or related best practice documents.

If your pool hasn't developed resources in these areas, you might start by identifying public information officers or communications professionals within your member entities and bringing them together to share ideas, build relationships, and suggest useful ways the pool can support their efforts and share resources. In some cases these roles might be embedded within law enforcement agencies, or could be more generalized to the public entities or schools you serve.

It's also a good idea to develop specific crisis and media communication plans for your pool for a law enforcement matter, or any other major issue. Many pools already have plans in place for helping their members deal with crisis or media communications, but don't anticipate that the pool, itself, could become a target of media inquiry or could have crisis communication needs.

Your pool won't be able to help members effectively if you are working through your own crisis communication needs without a plan – so it's wise to be sure you are fully prepared to respond. Finally, work to ensure media messages or crisis communications coming from multiple organizations – the law enforcement agency, its local government or school administration and elected bodies, and the pool itself – are consistent. The best time to be involved in crisis communications planning is before an event occurs.

How all of these issues and ideas come together in your pool is very much a product of your membership, your coverages and services, your reinsurance or excess partnerships, and many other factors. AGRiP has compiled a list of some known resources that might be of use, and we certainly encourage additional pool-to-pool sharing of ideas, as well.

Suggestions or additions to the resource list are encouraged. Contact Ann Gergen by [email](#) or at 518-220-0336.

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**Law Enforcement Risks: Known Resources**

These are law enforcement risk resources currently identified by AGRiP. The list was created as of January 2016 and is not sorted into any recommended order. AGRiP has not vetted these firms or their qualifications, and does not endorse their work or products. Of course, there may also be other available firms and resources not included on this list.

The firms listed provided and/or reviewed this information. Pools are encouraged to conduct their own evaluation of resources most qualified to meet their specific needs.

In addition to the resources listed below, pools may find valuable the [Final Report of the President’s Task Force on 21<sup>st</sup> Century Policing](#).

<b>TRAINING RESOURCES / FIRMS</b> (Alphabetical order)	<b>NOTES</b> <i>Noted by AGRiP</i> Provided by Resource
<p><b>FirstNet Learning</b>                      1350 17<sup>th</sup> Street, Suite 250                      Denver, CO 80202  <a href="http://firstnetlearning.com">firstnetlearning.com</a></p> <p>Roy Burger, CEO  <a href="mailto:le@firstnetlearning.com">le@firstnetlearning.com</a></p>	<p><i>AGRiP Partner</i></p> <p>Exclusive provider of <a href="#">Below100</a> online program, dedicated to keeping officers safe.</p>
<p><b>Lexipol</b>                      6B Liberty, Suite 200                      Aliso Viejo, CA 92656  <a href="http://lexipol.com">lexipol.com</a></p> <p>Ken Wallentine, Consultant  <a href="mailto:KenWallentine@comcast.net">KenWallentine@comcast.net</a></p> <p>Sharilyn Cromer, Business Development Executive  <a href="mailto:scromer@lexipol.com">scromer@lexipol.com</a></p>	<p><i>AGRiP QEI Patron</i></p> <p>Comprehensive program of state-specific best practice law enforcement policies addressing high-risk activities responsible for the largest liability claims, combined with daily scenario-based training exercises to reinforce policy. Provided via a web-based platform and mobile app.</p>

<b>TRAINING RESOURCES / FIRMS</b> (Alphabetical order)	<b>NOTES</b> <i>Noted by AGRiP</i> Provided by Resource
<b>Legal and Liability Risk Management Institute</b> 5235 Decatur Blvd Indianapolis, IN 46241 800-365-0119 www.llrmi.com  Jack Ryan, Attorney Jim Alsup, Director of PATC <a href="mailto:director@patc.com">director@patc.com</a>	<b>Risk Management Services</b> <ul style="list-style-type: none"> <li>• Training</li> <li>• Policies and Procedures</li> <li>• Agency Audits and Inspections</li> <li>• Policy Review and Recommendations</li> <li>• Property and Evidence Audits</li> <li>• Expert Witness</li> <li>• Agency Liability Risk Assessment</li> </ul>
<b>LocalGovU and PoliceOne.Com</b> 200 Green Street San Francisco, CA 94111 888-POLICE-1 ext.1 <a href="http://localgovu.com/localgovu-for-risk-pools">localgovu.com/localgovu-for-risk-pools</a> <a href="http://policeone.com">policeone.com</a>  Aaron Barnes, COO <a href="mailto:aaron.barnes@praetoriangroup.com">aaron.barnes@praetoriangroup.com</a>	<i>AGRiP QEI Patron</i>  <i>Online risk management training resources with news, products, trainings, grants and an interactive online community.</i>  <b>Courses include:</b> <ul style="list-style-type: none"> <li>• Ethics in Law Enforcement</li> <li>• De-Escalation and Minimizing Use of Force</li> <li>• Anti-Bias Training</li> <li>• Body Worn Cameras for Law Enforcement</li> <li>• Use of Force</li> <li>• Responding to People with Mental Illness</li> <li>• Officer Liability</li> <li>• Community Policing</li> <li>• Procedural Justice</li> <li>• Strategies for Community Policing</li> </ul>
<b>TargetSolutions</b> 10805 Rancho Bernardo Rd San Diego, CA 858-376-1619 <a href="http://targetsolutions.com">targetsolutions.com</a>  Phil Coons, Director of Sales <a href="mailto:phil@targetsolutions.com">phil@targetsolutions.com</a>	<i>AGRiP QEI Patron</i>  <i>Online risk management training resource with some listed content related to law enforcement.</i>

<b>COMMUNICATIONS RESOURCES / FIRMS</b> (Alphabetical order)	<b>NOTES</b> <i>Noted by AGRiP</i> Provided by Partner
<p><b>Davis Communications Management</b>            213 4<sup>th</sup> St. E., Suite 404            St. Paul, MN 55101            651-276-2404  <a href="http://daviscommunications.biz">daviscommunications.biz</a></p> <p>Ted Davis, APR  <a href="mailto:ted@daviscommunications.biz">ted@daviscommunications.biz</a></p>	<p>Crisis communications consulting.            Litigation communications consulting.            Strategic messaging. Media relations consulting.</p>
<p><b>Eric Mower + Associates</b>            30 South Pearl St, Suite 1210            Albany, NY 12201            518-449-3000  <a href="http://mower.com">mower.com</a></p> <p>Sean Casey, Partner – Director of Public Affairs  <a href="mailto:scasey@mower.com">scasey@mower.com</a></p>	<p><i>Media relations, PR, and crisis communications planning and consulting.</i></p>



<b>ADDITIONAL RESOURCES/ FIRMS</b> (Alphabetical order)	<b>NOTES</b> <i>Noted by AGRiP</i> Provided by Partner
<p><b>Police Executive Research Forum (PERF)</b>            1120 Connecticut Ave, NW            Suite 930            Washington, DC 20036  <a href="http://policeforum.org">policeforum.org</a></p> <p>Chuck Wexler, Executive Director  <a href="mailto:cwexler@policeforum.org">cwexler@policeforum.org</a></p>	<p><i>Independent research organization that focuses on critical issues in policing through publications, events and consulting resources.</i></p>
<p><b>Upper Midwest Community Policing Institute (UMCPI)</b>            1951 Woodlane Drive, Suite 200            Woodbury, MN 55125            651-917-2255  <a href="http://umcpi.org">umcpi.org</a></p> <p>William Micklus, Associate Director  <a href="mailto:wmicklus@umcpi.org">wmicklus@umcpi.org</a></p>	<p>Non-profit organization providing customized training and consulting services to public safety practitioners.</p> <p><u>Training design and delivery:</u></p> <ul style="list-style-type: none"> <li>• Pre-escalation / de-escalation strategies for at-risk populations</li> <li>• Street-level dispute resolution skills</li> <li>• Train the Trainer--Public Safety De-escalation Tactics for Veterans in Crisis</li> <li>• Internal affairs / police accountability</li> <li>• Constitutional policing and the protection of civil rights</li> <li>• Community policing strategies and outcomes</li> </ul> <p><u>Consulting &amp; technical assistance:</u></p> <ul style="list-style-type: none"> <li>• Pro-active organizational and operational assessments</li> <li>• Executive coaching and mentoring</li> <li>• Community engagement – building legitimacy, transparency and trust</li> <li>• Police accountability investigations</li> </ul>