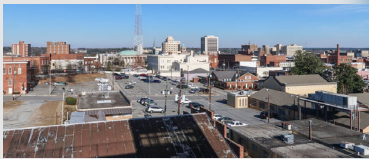



Local Government Liability and Insurance Issues

James R. Westbury, Jr.
Claims Manager and Coverage Counsel
Georgia Municipal Association



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OVERVIEW



CLAIMS UNDER FEDERAL LAW

- Standard for Liability
- Defenses

CLAIMS UNDER STATE LAW


- Standard for Liability
- Defenses

2

LOCAL GOVERNMENT LIABILITY FOR FEDERAL CONSTITUTIONAL CLAIMS

- **MONELL V. DEPT. OF SOCIAL SERV., 436 U.S. 658 (1978).**
 - *No Respondeat Superior* (vicarious) liability for local government
 - A Plaintiff must prove that an official policy or custom of the city or county was the moving force beyond the violation.
 - In most circumstances will absolve city or county of liability.



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HOW CAN A PLAINTIFF PROVE POLICY OR CUSTOM?

<p>Official act or statement formally adopted and promulgated by body's officers.</p> <ul style="list-style-type: none"> Regulation. Ordinance. Policy statement. 	<p>Custom</p> <ul style="list-style-type: none"> Formal approval not necessary. "[P]ractices of state officials so permanent and well settled as to constitute a 'custom or usage' with the effect of law." <i>Monell</i>. 	<p>Inadequate training</p> <ul style="list-style-type: none"> <i>Canton v. Harris</i>, 489 U.S. 378 (1989). Failure to train in an area can be the equivalent of an unconstitutional policy. 	<p>Inadequate supervision.</p> <ul style="list-style-type: none"> Deliberate indifference.
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WHO CAN CREATE POLICY?

- THE POLICYMAKER
 - Mayor and Council
 - County Commission
 - Person or persons to whom responsibility has been delegated
 - City/County Manager
 - Sheriff
 - Public Safety Director
 - Police Chief
 - Training Officer
 - Supervisory Personnel

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POLICY CAN BE ESTABLISHED BY A SINGLE ACT OF A POLICYMAKER

If a policymaker is involved in a particular decision, that one decision can establish policy. Examples:

- Arrest by police chief.
- Personnel decision by a department head.
- Depends on whether there is further review.


The action must constitute official policy.

- Not personal, private misconduct (e.g., bribery, assault, battery).
- Example: Police chief commits sexual assault on an arrestee.

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DEFENSES AVAILABLE TO LOCAL GOVERNMENT

- Constitutional injury was not the result of official policy or custom.
- Local governments are immune from punitive damages.



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Remember LOCAL GOVERNMENTS DO NOT HAVE SOVEREIGN IMMUNITY ON FEDERAL CLAIMS.*


*Beyond immunity for punitive damages.

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FEDERAL CLAIMS AGAINST THE INDIVIDUAL DEFENDANT

- Unlike the local government:
 - Individuals are responsible for constitutional violations.
 - Compensatory damages
 - Punitive damages.
- FIRST LINE OF DEFENSE . . .



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QUALIFIED IMMUNITY



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QUALIFIED IMMUNITY

- Available to individual defendant.
- In defense to any federal statutory or constitutional claim.
- Elements:
 - Defendant acted within *discretionary authority*.
 - Objective, good faith standard.
 - Must not violate *clearly established* constitutional or statutory rights of which a reasonable person would have known.
 - *Harlow v. Fitzgerald*, 457 U.S. 800 (1982).
 - Subjective intent is completely irrelevant.
- "No reasonable police officer."

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Absolute Immunity

- Legislative and judicial acts only.



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POTENTIAL CONFLICT OF INTEREST

- LOCAL GOVERNMENT
 - Individual was not acting in accordance with policy or custom.
- INDIVIDUAL
 - Acting consistent with:
 - Official policy.
 - Training.
 - Custom.
- Avoid at the outset by either:
 - Assigning separate counsel.
 - Making the de facto decision to ratify the officer's conduct.

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SUPERVISORY LIABILITY

- Supervisor may only be held personally liable based upon his or her own culpable action or inaction in training, control, or supervision of subordinates.
- Supervisor may not be held liable on *respondeat superior* basis.
- If supervisor is also a policymaker, may also create liability for the municipality.
- Federal courts generally apply deliberate indifference standard—more than negligence, but less than actual intent.

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CLAIMS UNDER STATE LAW

- Local Government**
 - Sovereign/Governmental Immunity
 - Public Duty Doctrine
 - Ante Litem Notice
- Individual**
 - Official Immunity

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SOVEREIGN IMMUNITY

- Georgia Constitution
- Waived as authorized by statute
- Waived to the extent of Insurance
- No immunity for ministerial (non-governmental) acts.
- No immunity for nuisance claims.
- Statutory waiver for motor vehicle claims even in the absence of insurance.
 - "Only when the tide goes out do you discover who's been swimming naked."
Warren Buffett
 - Buy coverage.
- No waiver for punitive damages.

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The Nuisance Exception

"A municipality like any other individual or private corporation may be liable for damages it causes to a third party from the operation or maintenance of a nuisance, irrespective of whether it is exercising a governmental or ministerial function." *City of Thomasville v. Shank*, 263 Ga. 624 (1993)(quoting *Town of Fort Oglethorpe v. Phillips*, 224 Ga. 834 (1968)).

"This exception to sovereign immunity is based on the principal that a municipal corporation can not, under the guise of performing a governmental function, create a nuisance dangerous to life and health or take or damage private property for public purpose, without just and adequate compensation first being paid." *Id.* (quoting *Delta Air Corporation v. Kersey*, 193 Ga. 862 (1942)).

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Nuisance Defined

The defect or degree of misfeasance must be to such a degree as would exceed the concept of mere negligence. (A single isolated act of negligence is not sufficient.)

The act must be of some duration, and the maintenance of the act must be continuous or regularly repetitious.

City of Bowman v. Gunnells, 243 Ga. 809, 812 (1979).

Failure of the municipality to act within a reasonable time after knowledge of the dangerous defect or condition.

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Municipal vs. County Immunity

Under Georgia law, municipalities and counties have different immunity.

Counties only waive their immunity by purchase of insurance with respect to motor vehicle claims.

Counties retain their immunity even if they have insurance.

Be very careful on joint projects.

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Statutory Waivers of Sovereign Immunity

- Use of a motor vehicle. O.C.G.A. §§ 36-92-1 *et seq.*
- Open Meetings Act. O.C.G.A. §§ 50-14-1 *et seq.*
- Open Records Act. O.C.G.A. §§ 50-18-70 *et seq.*
- Georgia Whistleblower Act, O.C.G.A. § 45-1-4.
- Purchase of insurance. O.C.G.A. § 36-33-1.

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O.C.G.A. § 36-33-1(a)

“ . . . a municipal corporation shall not waive its immunity by the purchase of liability insurance, except as provided in Code Section 33-24-51 or 36-92-2, or unless the policy of insurance issued covers an occurrence for which the defense of sovereign immunity is available, and then only to the extent of the limits of such insurance policy.”

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Immunity Exclusions

Insurance carriers are permitted to exclude claims from coverage that would be subject to the doctrine of sovereign, or governmental, immunity, even in cases involving motor vehicles. *Atlantic Specialty Ins. Co. v. City of College Park*, __ S.E.2d __, 2022 WL 451879 (Ga. Feb. 15, 2022); see also *Gatto v. City of Statesboro*, 834 S.E.2d 623 (Ga. App. 2019).

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Ante Litem Notice

- Persons having a claim against a city or county must first present a claim for adjustment to the governing authority.
 - For cities:
 - Within 6 months. O.C.G.A. § 36-33-5.
 - Limited to negligence claims.
 - Statute of limitations is tolled until there is a response, but must be acted upon with 30 days.
 - Does not apply to contract claims.
 - For counties:
 - Within 12 months. O.C.G.A. § 36-11-1.
 - For minors and persons with disabilities, within 12 months after disability is removed.

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Pickens v. City of Waco,
833 S.E.2d 713 (Ga. App. 2019)

- Georgia Court of Appeals
 - “Pickens’s statement that “we believe that the value of this claim *may exceed \$300,000*” leaves no question that the notice merely provided an estimate of potential damages, and was not “the specific amount of monetary damages being sought from the [City],” (i.e. a settlement offer which the City could have accepted) as contemplated by the unambiguous language of OCGA § 36-33-5 (e).
 - “[T]he claimant alone bears the burden of ensuring that his or her ante litem notice complies with the statutory requirements . . .”

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Public Duty Doctrine
City of Rome v. Jordan, 263 Ga. 26 (1993)

“[W]here failure to provide police protection is alleged, there can be no liability based on a municipality’s duty to protect the general public.”

Special relationship exception:

- Explicit assurance by the municipality, through promises or actions, that it would act on behalf of the injured party;
- Knowledge on the part of the municipality that inaction could lead to harm; and
- Justifiable and detrimental reliance by the injured party on the municipality’s affirmative undertaking.

26

OFFICIAL IMMUNITY

- State law counterpart of qualified immunity.
- Requires that the employee or officer be performing *discretionary* (i.e., not ministerial) act.
- May only be overcome by demonstrating *actual malice*.

27

Actual Malice

- “In the context of Georgia’s official immunity doctrine, “**actual malice**” requires a **deliberate intention to do wrong.**” . . . It “does not include ‘implied malice,’ i.e., the reckless disregard for the rights or safety of others.” . . . Instead, actual malice requires more than “harboring bad feelings” or “ill will” about another; “rather, ill will must also be combined with the intent to do something wrongful or illegal.”
- An “evil of wicked motive” is required, meaning “**an actual intent to cause harm to the plaintiff**,” not merely an intent to do the act purportedly resulting in the claimed injury.

Wyno v. Lowndes Cty., 824 S.E.2d 297, 304 (Ga. 2019).

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But if you lose your immunity . . .

You may be personally responsible.


You **will be** personally responsible for punitive damages.

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VICTORY

- FEDERAL
 - No policy or custom
 - Qualified Immunity
- STATE
 - Sovereign Immunity
 - Public Duty Doctrine
 - Ante Litem Notice
 - Official Immunity



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HIGH RISK ISSUES

- Multijurisdictional task forces and projects.
- High-speed pursuits.
- Officer-involved shootings.
- Taser.
- Electronic communications.
- Nuisance.
- Social media.

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INSURANCE

Duty to indemnify.

↓

Duty to defend.

- Reservation of rights.
- Declaratory judgment actions.

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COVERAGES

- General Liability
- Law Enforcement
- Automobile
 - Statutory waiver of immunity
- Worker's Compensation
 - Mandatory
 - Exclusive Remedy
- Errors and Omissions
- Employment Practices

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WHERE COVERAGE MAY NOT EXIST

Late notice.	Failure to cooperate.
Political controversies.	Non-fortuitous risks.
Claims that do not seek money damages.	Acting outside the scope.
Intentional misconduct.	Employment practices.
Attorney's fees.	Punitive damages.

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Pitfalls

Inadequate background investigations.	Relationships in the office.	Inappropriate symbols and language.
E-mail.	Letting politics influence personnel decisions.	Inappropriate use of social media.
Improper internal investigations.	Policies you don't train on.	Policies you don't follow.
Hiring friends.	Failure of leaders to lead.	Not seeking legal advice.

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Best Practices

Consultation with the city attorney.	Using the Employment Law Helpline.	Putting the carrier on notice early.	Crisis management.	Zero tolerance for unprofessional language and symbols.	Written policies on all critical tasks.
Training on your own policies.	Proper background investigations.	Properly timed investigations.	Personnel decisions free from politics.	Hiring female police officers.	Documenting excellence.
Documenting substandard.	E-communications treated with care.	Schooling your team on social media.	Diversity and inclusion.	Cyber training.	Contract review for insurance and indemnification.

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Thank You!

James Westbury

404-640-3003

jwestbury@gacities.com

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HOW LEADERS REDUCE RISKS WITHIN CITIES

BY
DAN BECK
DIRECTOR OF LGRMS

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- Joint effort of ACCG & GMA
- Set up as a non-profit corporation in 1988
- Overseen by joint ACCG & GMA Board
- Developed as a service organization
- Funded by and services 6 insurance programs

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Workers' Compensation Members:
485 **175**

Property & Liability Members:
370 **157**

Health Insurance Members:
153 **103**

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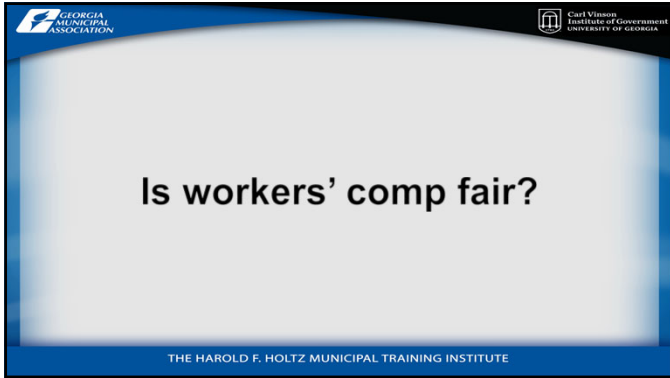
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Risk Management Progression

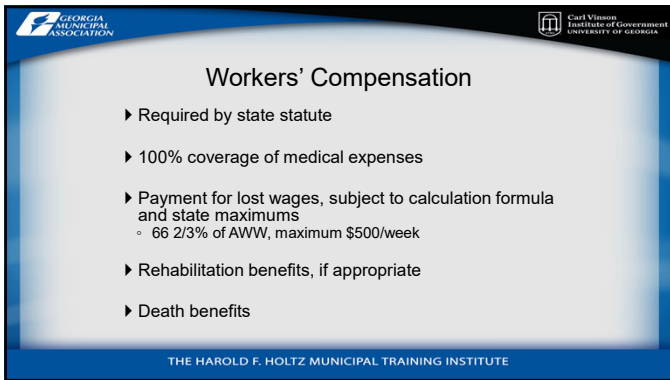
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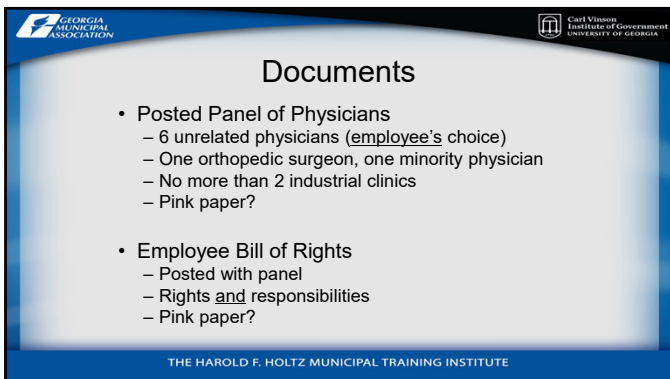
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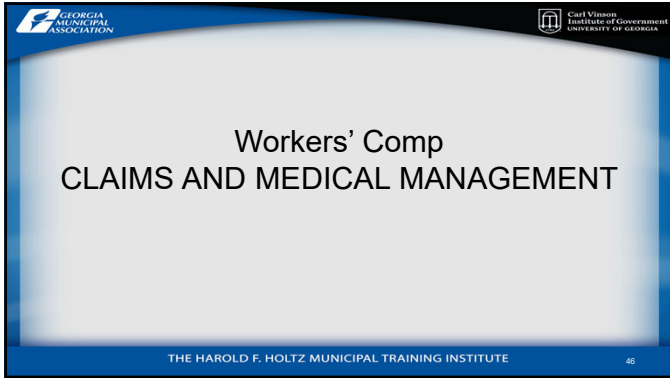
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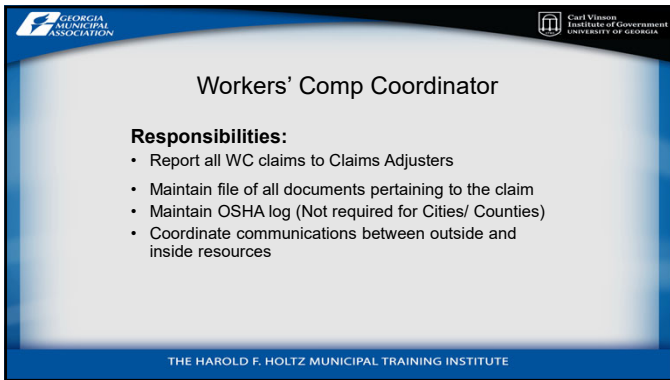
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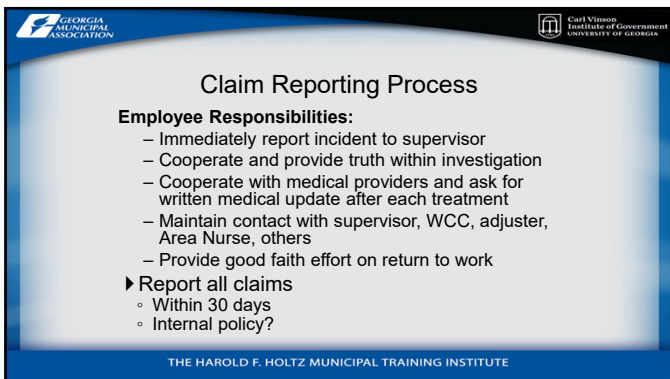
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46



47



48

Claim Reporting Process

Manager/Supervisor Responsibilities:

- Evaluate injury/illness for medical treatment
- Forward claim information to WCC immediately
- Complete a full incident investigation within 24-48 hours
- Maintain communications with employee, WCC, adjuster, others

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Hiring Process

- Application
- Physical capability Analysis
- Post Hire Medical Examinations

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Medical Treatment Recommendations

- have at least one person trained in emergency first aid and CPR
- have pre-determined medical facilities (Posted Panel of Physicians)
- Medical provider must be familiar with your operation, working conditions, and return to work program.

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Return To Work

- Generally temporary work
- Meaningful/value added work
- Job Analysis – Physical and Environmental Demand Survey
- Communications
 - Employees
 - Supervisors
 - Physician
 - Adjuster

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Communication

- Communication
- Communication
- Communication

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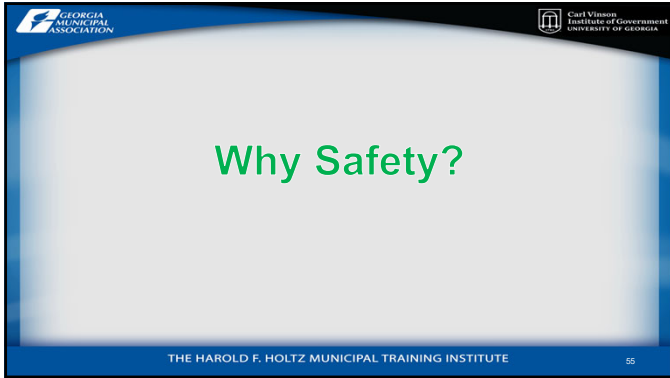
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What motivates you in your job?

What is your top job priority?

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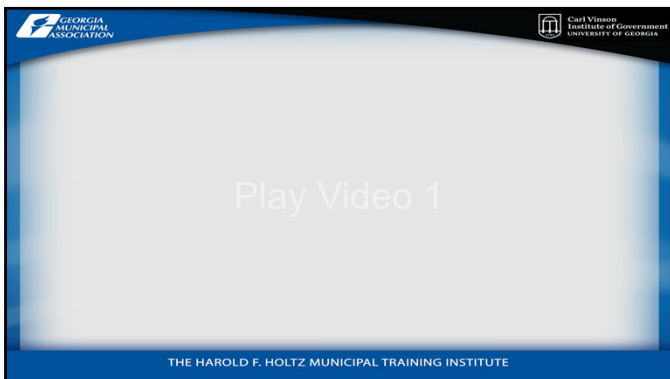
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56



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Regulatory Compliance
(Internal/ External)

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ACCIDENT COSTS ICEBERG

Claims Costs

- > Property Damage
- > Reduced productivity
- > Accident investigation
- > Administrative costs
- > Lost time by supervisor
- > Costs of training replacement worker
- > Overtime
- > Equipment repair
- > Negative publicity
- > Damage to customer relations

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Moral Issue

- No one wants to see someone get hurt
- Everyone has the right to leave work in the same condition as when they arrived.
- Family Explanation

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WHY ARE WE HERE?

How many safety experts do we have within your organization?

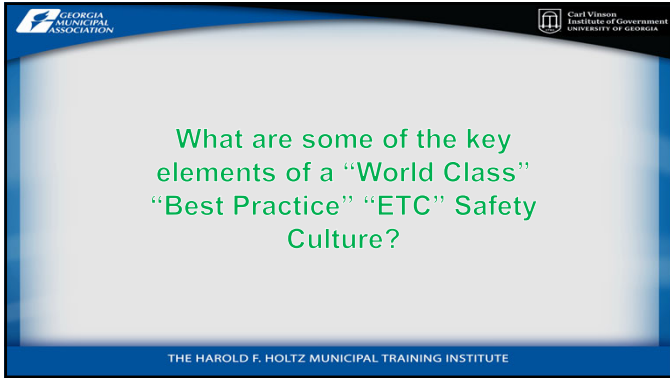
What are the most dangerous words you will hear in any new organization?

- HISTORICAL
 - SAFETY, SAFETY, SAFETY

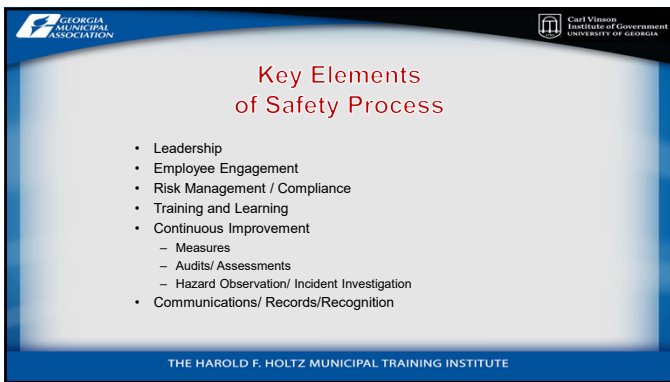
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So how do we control these risks?

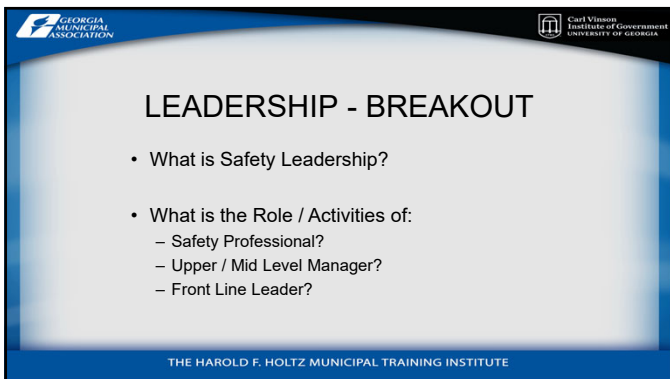
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64



65



66

Leadership

- Recent studies show that over 85% of an organization's safety and health problems can be controlled through effective leadership
- The lack of understanding of what effective leadership is -- is at the base of most problems, including those occurring in safety and health

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Leadership & Commitment

- Establishing a Vision
- Assessment
- Planning
- Resource Allocation
- Accountabilities/Personal Responsibility
- Demand Continuous Improvement
- Engage Lead by Example
- Visible Commitment



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Road-ero Training

September 2013

2014 SAFETY LEADERSHIP AWARD



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Employee Engagement / Involvement



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4 Levels of Employee Engagement

- The Hater - Actively Disengaged Employees, aka Vampires:**
 - Negative attitude about their employer and job duties
 - Malcontent, often openly showing their distaste while on the job
 - Focus on problems
 - Behavior and actions will cause more harm than good
- The Yeah Whatever - Ambivalent Employees:**
 - Not apt to "going the extra mile", they do what is asked of them and nothing more
 - Rarely, if ever, volunteer for extra assignments or take lead roles
 - Lower energy and lackluster performance on assignments
 - Can often feel unappreciated or unimportant
- The Supporter - where they "buy-in" to the goals, objectives and vision**
 - That the company has, and identify with those goals so they contribute more to the overall effectiveness of the department. They understand why they are working there and are happy to support your goals as a manager and take their roles and responsibilities seriously.
- The Owner - Level three is where they show "ownership" of results**
 - This is when they take personal responsibility for hitting targets, achieving objectives and carrying out more than what is expected. For most employees, this level is satisfying and motivating as they achieve a lot more personal pride in their work and drive toward building their self-worth and self-confidence. Results are good because they "want" to do well rather than "need" to do well.

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How do you get employees engaged?

- Trust in leadership
- Communications
- Defined roles
- Career paths
- Shared ownership / decisions

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Activities to increase Employee Involvement

- Process/ Program Leadership
- Safety Team Membership
- Risk Assessments
- Inspection
 - Rotate individuals to inspect one system
- Training
 - Department trainers on specific topics
- Safety suggestions
- Mentors
- Safety Observations
- Safety Leads

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Accountability Performance Chain

- Setting clear expectations
- Removing barriers
- Ensuring employees are capable
- Providing quality training and tools
- Providing feedback
- And if necessary establishing consistent consequences

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Risk Management / Compliance

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Compliance Programs

- Asbestos/ Lead
- Bloodborne Pathogens
- Confined Space
- Electrical Safety
- Emergency Action Plan
- Excavation and Trenching
- Fire Safety/ Hot Work
- Hazardous Communication
- Machine Guarding
- Hearing Conservation
- Personal Protective Equipment
- Powered Industrial Truck
- Respirator
- Control of Hazardous Energy
- Waste Water
- Hazardous Waste

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Compliance Program Implementation

- Are you in total compliance?
- Overwhelming
- Role of the Safety Professional

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Why Risk Assessments?

- Be International
- Proactive VS Reactive
- Great Opportunity for Engagement
- Plan your work and work your plan
- Efficient and Effective
- Leader Education
- Great Leading Measure

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What are Risk Assessments

- Risk Identification
- Risk Evaluation
- Risk Prioritization
- Risk Control

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Analyze and Estimate Risk

LIKELIHOOD (L)	EXAMPLE	RATING
Most likely	The most likely result of the hazard / event being realized	5
Possible	Has a good chance of occurring and is not unusual	4
Conceivable	Might be occur at sometime in future	3
Remote	Has not been known to occur after many years	2
Inconceivable	Is practically impossible and has never occurred	1

SEVERITY (S)	EXAMPLE	RATING
Catastrophic	Numerous fatalities, irrecoverable property damage and productivity	5
Fatal	Approximately one single fatality major property damage if hazard is realized	4
Serious	Non-fatal injury, permanent disability	3
Minor	Disabling but not permanent injury	2
Negligible	Minor abrasions, bruises, cuts, first aid type injury	1

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82

Likelihood (L)	Severity (S)				
	1	2	3	4	5
5	5	10	15	20	25
4	4	8	12	16	20
3	3	6	9	12	15
2	2	4	6	8	10
1	1	2	3	4	5

Table C

High ■
 Medium ■
 Low ■

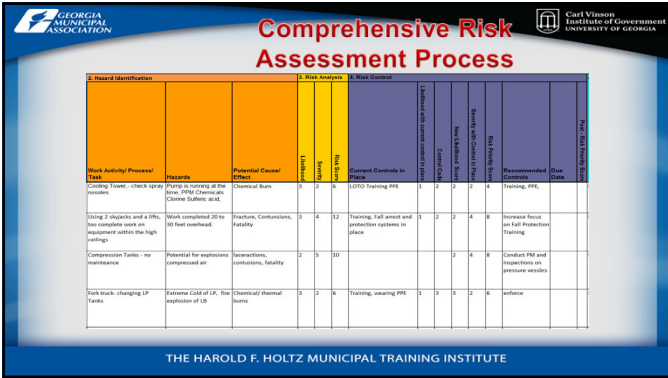
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RISK	DESCRIPTION	ACTION
15 - 25	HIGH	A HIGH risk requires immediate action to control the hazard as detailed in the hierarchy of control. Actions taken must be documented on the risk assessment form including date for completion.
5 - 12	MEDIUM	A MEDIUM risk requires a planned approach to controlling the hazard and applies temporary measure if required. Actions taken must be documented on the risk assessment form including date for completion.
1 - 4	LOW	A risk identified as LOW may be considered as acceptable and further reduction may not be necessary. However, if the risk can be resolved quickly and efficiently, control measures should be implemented and recorded.

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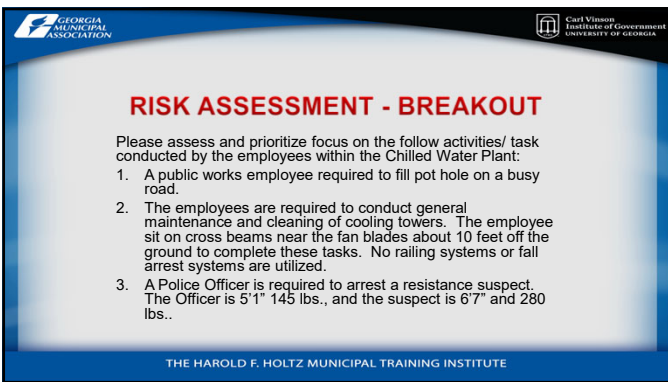


Comprehensive Risk Assessment Process

I. Hazard Identification			II. Risk Analysis			III. Risk Control			
Work Activity/ Process/ Task	Hazards	Potential Cause/ Effect	Severity	Frequency	Risk Score	Current Controls In Place	Linkages with Current Control of This Hazard	Recommended Controls	Due Date
Cooling Tower - Check spray nozzles	Slip, tripping, or fall hazard. Chemical splash. Chlorine. Sulfuric acid.	Chemical Burn	3	2	6	OSHA Training PPE		Training, PPE	
Using 2 objects and a lift, low complex work on equipment within the high ceilings		Fracture, Contusion, Injury	3	4	12	Training, Fall arrest and protection systems in place		Increase focus on Fall Protection Training	
Compression Tanks - no maintenance	Potential for explosion, compressed air	Instructions, contamination, fatality	2	5	10			Conduct EM and Inspections on pressure vessels	
Work truck - changing LP Tanks	Extreme cold air LP, fire explosion of LP	Chemical/ thermal burn	3	3	9	Training, wearing PPE		enforce	

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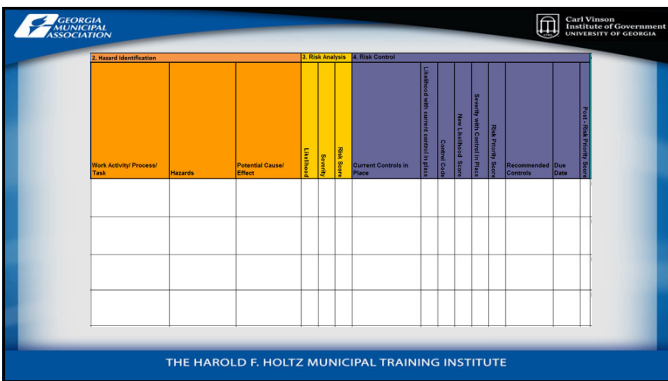
RISK ASSESSMENT - BREAKOUT

Please assess and prioritize focus on the follow activities/ task conducted by the employees within the Chilled Water Plant:

1. A public works employee required to fill pot hole on a busy road.
2. The employees are required to conduct general maintenance and cleaning of cooling towers. The employee sit on cross beams near the fan blades about 10 feet off the ground to complete these tasks. No railing systems or fall arrest systems are utilized.
3. A Police Officer is required to arrest a resistance suspect. The Officer is 5'1" 145 lbs., and the suspect is 6'7" and 280 lbs..

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86



Comprehensive Risk Assessment Process

I. Hazard Identification			II. Risk Analysis			III. Risk Control			
Work Activity/ Process/ Task	Hazards	Potential Cause/ Effect	Severity	Frequency	Risk Score	Current Controls In Place	Linkages with Current Control of This Hazard	Recommended Controls	Due Date

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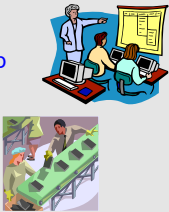
87

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Training and Learning

- Training
 - Technical, HSE Leadership
 - General awareness
 - Equipment - / job-specific



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88

GEORGIA MUNICIPAL ASSOCIATION

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Continuous Improvement

- Incident Analysis/ Investigation
 - In-process Checks
 - Assessments / Audits
 - Measures
 - Safety Action Plans

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Why Investigate?

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Likelihood (L)	Severity (S)				
	1	2	3	4	5
5	5	10	15	20	25
4	4	8	12	16	20
3	3	6	9	12	15
2	2	4	6	8	10
1	1	2	3	4	5

Table C

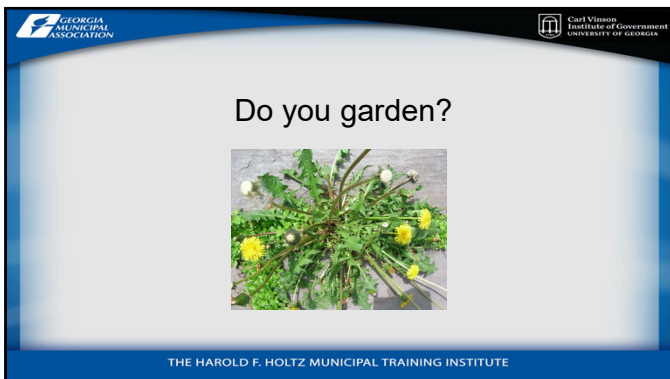
High ■
 Medium ■
 Low ■

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- Carl Vinson Institute of Government UNIVERSITY OF GEORGIA
- ### Why Investigate?
- Prevent future incidents (leading to accidents).
 - Identify and eliminate hazards.
 - Expose deficiencies in process and/or equipment.
 - Reduce injury and worker compensation costs.
 - Maintain worker morale.
 - Meet DOSH rule requirement that you investigate serious accidents.
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93

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The Five Whys

- **Basic Question** - Keeping asking "What caused or allowed this condition/practice to occur?" until you get to root causes.
- The "five whys" is one of the simplest of the root cause analysis methods. It is a question-asking method used to explore the cause/effect relationships underlying a particular problem. Ultimately, the goal of applying the 5 Whys method is to determine a **root cause** of a defect or problem.

The following example demonstrates the basic process:
My car will not start. (the problem)
 1) Why? - The battery is dead. (first why)
 2) Why? - The alternator is not functioning. (second why)
 3) Why? - The alternator belt has broken. (third why)
 4) Why? - The alternator belt was well beyond its useful service life and has never been replaced. (fourth why)
 5) Why? - I have not been maintaining my car according to the recommended service schedule. (fifth why and the **root cause**)

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Play Video 4

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Hierarch of Controls

- Elimination
- Substitution
- Engineering
- Administration
- Behavior
- PPE

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Interim vs. Long-Term

- Once identified, risks must be controlled
- Problem
 - Highly effective controls can take time to implement
 - Highly effective controls can be expensive
- Solution
 - Implement interim controls lower on the hierarchy or temporary fixes while long-term controls are researched, planned, and implemented.

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CORRECTIVE ACTIONS – SMART GOALS

- Specific
- Measurable
- Attainable
- Realistic
- Timely

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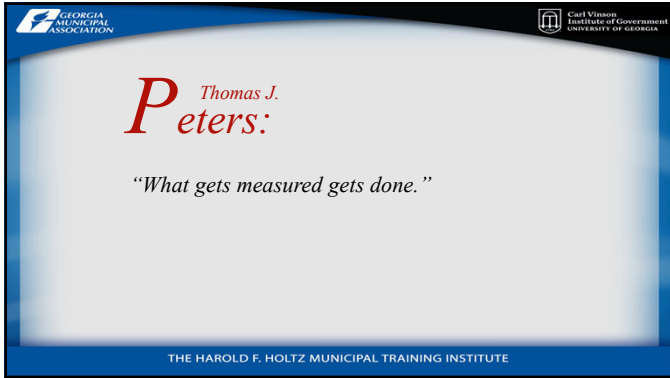
98

What is the root cause?
What is your corrective Action?

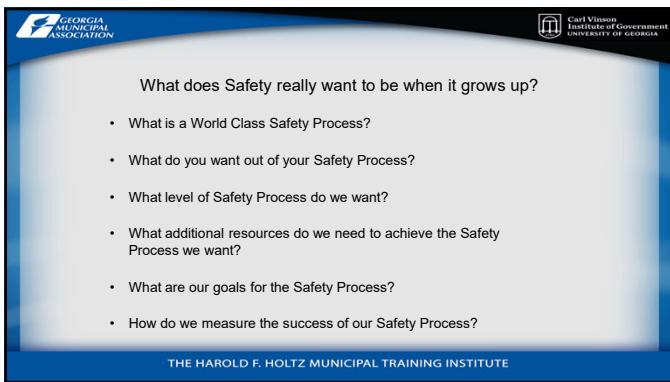


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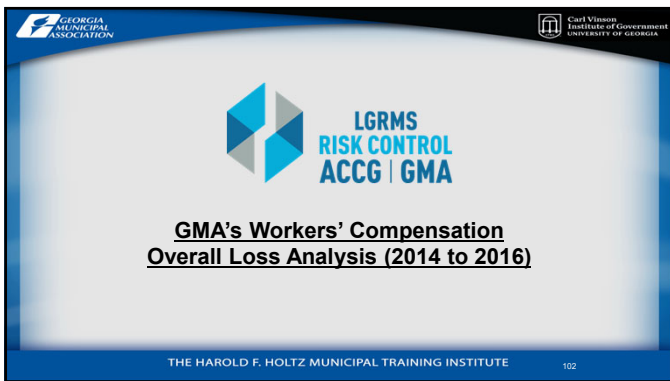
99



100



101



102

WC Claims/ Cost by Year

GMA WC				
Year	Total Incurred	%	# of Claims	%
2014	\$ 13,129,249	40%	2,024	36%
2015	\$ 10,129,151	31%	1,905	34%
2016	\$ 9,281,386	29%	1,678	30%
Grand Total	\$ 32,539,787		5,607	

- 5,607 WC Claims and \$33,000,000 Total Incurred from 2014 to 2016
- Development Factor sometimes 2 to 3 times the first years Total Incurred
- Total Incurred – Paid plus Reserved

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103

WC Claims/ Cost by Departments

- Police
 - 32% of Claims (1,776)
 - 40% of Total Incurred (\$13M)
- Public Works
 - 18% # of Claims (888)
 - 16% of Total Incurred (\$5.2M)
- Fire/EEMS
 - 12% # of Claims (672)
 - 13% Total Incurred (\$4.1M)
- Water Utility
 - 7% # of Claims (416)
 - 21% of Total Incurred (\$3.5M)
- Police, Public Works, Fire, and Water Utilities account for
 - 69% of Claims
 - 79% of Total Incurred

GMA WC by Dept				
Dept	Total Incurred	%	# of Claims	Cost/ Claims
Police	\$ 12,937,472	40%	1,776	\$ 7,285
Public Works	\$ 5,225,570	16%	988	\$ 5,289
Fire	\$ 4,110,871	13%	672	\$ 6,117
Water Utility	\$ 3,494,246	11%	416	\$ 8,419
Housing Auth	\$ 968,033	3%	246	\$ 3,935
Electrical Util	\$ 913,187	3%	136	\$ 6,715
Refuse	\$ 801,108	2%	181	\$ 4,426
School	\$ 756,478	2%	225	\$ 3,362
Bldg Maint	\$ 655,405	2%	124	\$ 5,286
Admin	\$ 546,899	2%	180	\$ 3,038
Water WW	\$ 539,520	2%	72	\$ 7,493
Parks	\$ 398,672	1%	165	\$ 2,416
Gas Utility	\$ 376,167	1%	74	\$ 5,083
Other	\$ 272,567	1%	167	\$ 1,632
Exhibitions	\$ 207,679	1%	32	\$ 6,490
Grand Total	\$ 32,539,787		5,607	

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104

Claims/ Cost by Years of Service

GMA WC Years of Service				
Yrs of Srv	Total Incurred	%	# of Claims	%
First Year	\$ 4,306,988	13%	1,099	20%
Second Year	\$ 2,534,625	8%	595	11%
Third Year	\$ 1,983,829	6%	408	7%
Fourth Year	\$ 2,668,485	8%	353	6%
Fifth Year	\$ 1,430,645	4%	274	5%
1 to 5	\$ 12,924,572	40%	2,729	49%
6 to 10	\$ 6,328,766	19%	1,109	20%
11 to 15	\$ 6,497,432	20%	660	12%
16 to 20	\$ 3,182,442	10%	494	9%
21 to 25	\$ 1,863,782	6%	120	2%
26 to 30	\$ 1,036,414	3%	121	2%
31 to 35	\$ 373,076	1%	67	1%
Grand Total	\$ 32,539,787		5,607	

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105

Claims/ Cost by Age

GMA WC by Age Range				
Age Range	Total Incurred	%	# of Claims	%
Teens	\$ 21,237	0%	31	1%
Twenty's	\$ 1,875,658	6%	944	17%
Thirty's	\$ 6,579,332	20%	1400	25%
Forty's	\$ 10,612,004	33%	1386	25%
Fifty's	\$ 7,571,265	23%	1205	22%
Sixty's	\$ 5,170,412	16%	559	10%
Seventy's	\$ 569,575	2%	48	1%
Eighty's	\$ 134,087	0%	8	0%
Grand Total	\$ 32,539,787		5581	

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106

Claims/ Cost by Sex

GMA WC Male/ Female					
Sex	Total Incurred	%	# of Claims	%	Cost/ Claim
Female	\$ 4,171,123	13%	971	17%	\$ 4,296
Male	\$ 28,332,060	87%	4,577	82%	\$ 6,190
Grand Total	\$ 32,539,787		5,550		

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107

Police by Cause

GMA Police WC				
Cause	Total Incurred	%	# of Claims	Cost/ Claim
Aberration	\$ 2,056,270	23%	496	\$ 4,143
Food Pursuit	\$ 2,053,258	18%	123	\$ 16,046
MVA	\$ 2,048,417	18%	282	\$ 7,299
Slip Fall	\$ 1,415,725	11%	296	\$ 4,782
Tranport	\$ 1,390,473	10%	109	\$ 12,205
Non Category	\$ 813,100	6%	383	\$ 2,122
Frags	\$ 643,253	5%	62	\$ 7,645
Ex in MV	\$ 622,104	5%	27	\$ 23,041
Duty Belt	\$ 412,857	3%	1	\$ 412,857
Hit by MV	\$ 277,997	2%	1	\$ 277,997
Tree Work	\$ 151,320	1%	4	\$ 37,880
Exposure	\$ 130,816	1%	150	\$ 879
Other	\$ 119,966	1%	2	\$ 59,632
Changing Tired	\$ 104,036	1%	2	\$ 52,018
Grand Total	\$ 12,937,472		3,776	

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108

LGRMS Services Law Enforcement Focus

- Opportunity/ Targeted Members
 - Problem Solving/ Action Planning Training
- Focused Audit Protocols
 - Motor Vehicle Operation
 - Use of Force
- Driver Training
 - Driving Simulator Training (Defensive Driving Focus)
 - Backing Train the Trainer
 - Pursuit/ EVOC
 - Etc....
- De-escalation Training with Simulator
- Other Training
 - Below 100
 - High Risk Critical Tasks
 - Safety Officer Training

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109

Fire Dept Claims by Cause

GMA FIRE by Cause				
Cause	Total Incurred	%	# of Claims	%
Non-Category	\$ 236,228	6%	144	21%
Ergo	\$ 385,458	9%	141	21%
Exposure	\$ 58,618	1%	140	21%
Slip/Fall	\$ 332,575	8%	86	13%
Training	\$ 1,127,686	27%	72	11%
Fighting Fire	\$ 1,112,996	27%	35	5%
Lifting Patient	\$ 414,505	10%	23	3%
MVA	\$ 6,132	0%	16	2%
Ex-En-MV	\$ 390,320	9%	13	2%
Ssk by MV	\$ 4,140	0%	1	0%
Unknown	\$ 42,173	1%	1	0%
Grand Total	\$ 4,110,871		672	

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LGRMS Services Fire/ EMS Focus

- Opportunity/ Targeted Members
 - Problem Solving/ Action Planning Training
- Driver Training
 - Driving Simulator Training (Defensive Driving Focus)
 - Backing Train the Trainer
 - Pursuit/ EVOC
 - Etc....
- Other Training
 - Fit Responder (Pilot)
 - Slips/ Falls
 - Ergonomics
 - Safety Officer Training

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Public Works by Cause

GMA Public Works/ Street WC			
Cause	Total Incurred	%	# of Claims
Slip Fall	\$ 1,687,948	32%	147
Ergo	\$ 878,512	17%	240
Fall off MV	\$ 678,072	13%	7
Struck by MV	\$ 552,484	11%	3
Tree Wrk	\$ 454,988	9%	18
non Category	\$ 395,970	8%	399
MVA	\$ 318,485	6%	69
Exposure	\$ 232,326	4%	103
Ex In MV	\$ 4,303	0%	2
Grand Total	\$ 5,203,088	100%	988

- Leadership, Action Planning, Policy, Training, and Accountability
- Slips/ Falls,
- Ergonomics,
- Fall off Motor Vehicles,
- Tree Work,
- Motor Vehicle Incidents
- Account for 77% Total Incurred

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Water Utility by Cause

GMA Water Utility by Cause			
Type	Total Incurred	%	# of Claims
Non-Category	\$ 696,553	17%	183
Ergonomics	\$ 1,396,897	35%	98
Exposure	\$ 49,022	1%	88
Slip Fall	\$ 650,828	16%	84
MVA	\$ 127,192	3%	19
Fall Off Eq	\$ 607,937	15%	12
Trenching	\$ 495,175	12%	4
Grand Total	\$ 4,023,605		488

- Leadership, Action Planning, Policy, Training, and Accountability
- Slips/ Falls,
- Ergonomics,
- Fall off Motor Vehicles/ Equipment, and Trenching
- account for 78% Total Incurred

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LGRMS Services Public Works/ Water

- Opportunity/ Targeted Members
 - Problem Solving/ Action Planning Training
- Driver Training
 - NSC DDC Driver Training
 - Backing Train the Trainer
- Other Training
 - Trenching
 - Slips/ Falls
 - Ergonomics
 - Tree Work
 - Heavy Equipment
 - Exit and Entering Motor Vehicles-

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114

115

116

117

GMA Property & Liability Claims/ Cost by Year

Year	Total Incurred	%	# of Claims	%
2014	\$ 22,927,123	39%	1591	34%
2015	\$ 17,770,814	30%	1550	33%
2016	\$ 17,937,884	31%	1519	33%
Grand Total	\$ 58,635,821		4660	

- 4,660 PL Claims and \$59,000,000 Total Incurred from 2014 to 2016
- Development Factor sometimes 2 to 3 times the first years Total Incurred
- Total Incurred – Paid plus Reserved

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PL Claims/ Cost by Departments

- **Police (Yellow)**
 - 39% of Claims (1,809)
 - 43% of Total Incurred (\$25M)
- **Administration (Blue)**
 - 19% # of Claims (866)
 - 33% Total Incurred (\$19M)
- **Streets / Public Works**
 - 26% # of Claims (1,197)
 - 9% of Total Incurred (\$5M)
- **Police, Admin, and Streets/ Public Works account for**
 - 83% of Claims
 - 84% of Total Incurred

Dept	Total Incurred	%	# of Claims	%	Cost/ Claim
Police	\$ 25,060,296	43%	1,809	39%	\$ 13,853
Admin	\$ 19,216,021	33%	866	33%	\$ 22,169
Streets/ Pw Works	\$ 5,070,541	9%	1,197	26%	\$ 4,236
Sewage	\$ 2,489,905	4%	153	3%	\$ 16,274
Water Prod	\$ 1,619,360	3%	157	3%	\$ 10,314
Recreation	\$ 1,368,646	2%	108	2%	\$ 12,673
Fire	\$ 1,294,877	2%	134	3%	\$ 9,663
Electric Dis	\$ 1,243,992	2%	76	2%	\$ 16,366
Refuse	\$ 1,043,359	2%	130	3%	\$ 8,026
Schools	\$ 229,023	0%	30	1%	\$ 7,634
Grand Total	\$ 58,635,821		4,660		

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119

Police by Cause

Cause	Total Incurred	%	# of Claims	%	Cost/ Claim
MVA	\$ 13,857,567	55%	1,452	80%	\$ 9,544
False Arrest	\$ 2,702,399	9%	109	6%	\$ 24,748
Human Resources	\$ 3,302,643	13%	72	4%	\$ 45,870
Bang/Flash	\$ 1,065,404	4%	44	2%	\$ 24,216
Excessive Force	\$ 1,032,372	4%	33	2%	\$ 31,284
Officials	\$ 1,577,496	6%	32	2%	\$ 49,297
PIE	\$ 299,331	1%	25	1%	\$ 11,973
Jail	\$ 991,458	4%	11	1%	\$ 90,133
Search & Seizure	\$ 212,485	1%	11	1%	\$ 19,317
Shooting / Taser	\$ 263,818	1%	10	1%	\$ 26,382
Grand Total	\$ 25,060,296		1,809		

- Leadership, Action Planning, Policy, Training, and Accountability
 - Motor Vehicle Incidents,
 - False Arrest,
 - Human Resources,
 - Excessive Force/ Shooting/Taser
 - Account for 83% of Total Incurred

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LGRMS Services Law Enforcement Focus

- Opportunity/ Targeted Members
 - Problem Solving/ Action Planning Training
- Focused Audit Protocols
 - Motor Vehicle Operation
 - Use of Force
 - Jail
- Driver Training
 - Driving Simulator Training (Defensive Driving Focus)
 - Backing Train the Trainer
 - Pursuit/ EVOCC
 - Etc....
- De-escalation Training with Simulator
- Other Training
 - Human Resource/ Hiring
 - High Risk Critical Tasks

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121

Administration by Cause

GMA ADMIN PL				
Type	Total Incurred	%	# of Claims	%
Property	\$ 11,983,724	62%	402	46%
PBE	\$ 1,471,091	8%	167	19%
MVA	\$ 570,215	3%	144	17%
Officials	\$ 2,578,181	13%	85	10%
Human Resource	\$ 1,248,976	6%	40	5%
Officials	\$ 1,363,835	7%	28	3%
Grand Total	\$ 19,216,021		866	

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122

Streets/ Public Works by Cause

GMA Streets PL				
Type	Total Incurred	%	# of Claims	%
PBE	\$ 3,000,743	39%	573	48%
MVA	\$ 1,646,931	22%	410	34%
Property	\$ 888,578	18%	33	3%
Storm Water	\$ 213,022	4%	6	1%
Human Res	\$ 146,842	3%	2	0%
Road Cond	\$ 129,133	3%	113	9%
Debris	\$ 27,454	1%	53	4%
Sewer	\$ 10,276	0%	4	0%
Public Trans	\$ 7,891	0%	5	0%
Grand Total	\$ 5,070,541		1,197	

- Leadership, Action Planning, Policy, Training, and Accountability
 - Public Building/ Equipment (Slip and Fall on Sidewalks, etc...)
 - Motor Vehicle Incidents,
 - Heavy Equipment Operations,
 - Road Conditions/ Design,
 - Flying Debris
 - Account for 75% of Total Incurred

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LGRMS Services Roads/ Public Works

- Focused Audits
 - Member Survey Guide
 - Roads Conditions/ Design Process
- Driver Training
 - NSC DDC Driver Training
 - Backing Train the Trainer
- Other Training
 - Regional Training - Roads Liability
 - Heavy Equipment

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LGRMS Services Parks and Recreation

- Focused Audits
 - Playgrounds/ Parks/ Pools
- Driver Training
 - NSC DDC Driver Training
 - Backing Train the Trainer

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125

All GMA PL Claims by Type

GMA PL Motor Vehicle Incidents				
Type	Total Incurred	%	# of Claims	%
MVA	\$ 16,822,989	29%	2,227	48%
All Other	\$ 35,610,159	61%	2,287	49%
HR	\$ 6,202,674	11%	146	3%
Grand Total	\$ 58,635,821		4,660	

- Motor Vehicle Incidents, Motor Vehicle Incidents, Motor Vehicle Incidents

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126

All GMA PL MV Claims by Department

GMA PL			
Dept	Total Incurred	%	# of Claims
POLICE	\$ 12,269,633	73%	1,328
STR & RDS	\$ 1,653,676	10%	401
ELEC DISTR	\$ 1,160,113	7%	43
ADMIN	\$ 530,386	3%	145
FIRE	\$ 512,611	3%	84
REFUSE	\$ 350,861	2%	94
Water Prod	\$ 217,694	1%	72
Sewage	\$ 56,722	0%	15
GEN REC	\$ 36,044	0%	25
SCHOOLS	\$ 33,953	0%	19
MVA	\$ 1,295	0%	1
Grand Total	\$ 16,822,989		2,227

Percent of Total Incurred MV Claims

- Police
- Streets, Roads, & Public Works
- Account for 83% of Total Incurred

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127

Conclusion

- Review your Losses
- Review the Pools Losses
- Identify Predictable Loss Trends that you can impact
- Leadership, Leadership, Leadership
- Motor Vehicle, Motor Vehicle, Motor Vehicle
- Develop Action Plan
 - Programs/ Policies
 - Training
 - Accountability

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128

SAFETY ACTION PLAN - BREAKOUT

Opportunities for Improvement

- Current culture is tolerant of deviations from established Health and Safety expectations
- Managers and Supervisors Health and Safety Leadership capabilities are inconsistent
- Sense of complacency in follow-up on Health and Safety concerns

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SAFETY ACTION PLAN -BREAKOUT

- Your organization has about 500 employees. You have a Total Incident (TRI) rate of 19.2 and a DAW rate of 7.4. Your annual W/C cost is \$750,000
- Distribution of TRI by Safety Program:**
 - 60% Ergonomics
 - 15% Walking Working Surfaces
 - 15% Other
- Distribution of TRI by Contact Type:**
 - 35% Ergo - lifting below shoulder
 - 10% Ergo - Awkward Posture
 - 10% Ergo - Pushing Pulling
 - 10% WWS - Fall Same Level
 - 5% Ergo - Lifting Above Shoulder
 - 5% Caught Between
 - 5% Struck By
 - 5% Sharp Object

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SAFETY ACTION PLAN -BREAKOUT

Process Gap	Corrective Action	Estimated Date of Completion	Owner/ Team

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131

LGRMS Risk Reduction Loss Trend Analysis and Action Plan

Location: Anytown, GA Year: 2015

Loss Trend Analysis
Top Department by % of Claims Dollars

#	Department	% of Claims Dollars
1	Police Department	36% WC / 44% PL
2	Public Works	17% WC / 10% PL
3		
4		

Action Plan
#1 Focus Department: Police Department

Department's Loss Types: Motor Vehicle Incidents: 34% WC and 29% PL
Department's Risk Reduction Goal 2014 we had 12 M.V. incidents, our goal for 2015 is 6

#	Action Item	Owner's Name	Date	Status
1	Communicate the target/goal and its status to Department in monthly meetings. You may want to include within employee evaluations.	Chief Smith	Feb-15	Open
2	Enhance or develop Motor Vehicle Policy (LGRMS has several examples of MVPs)	Captain Wilson	Apr-15	Open
3	Investigate all Motor Vehicle incidents, no matter how severely. Identify root cause, and corrective action. Communicate results of investigation to department staff.	Chief Smith	15-Jun	Open
4	Provide training on Motor vehicle related expectations, Policy and incident trends to entire Police Force (Local Gov is a great resource for the type of training)	Captain Wilson	15-Jun	Open
5	Provided feedback during supervisor ride-alongs	Supervisors	15-Aug	Open

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Communications/ Records/Recognition

- What is/ are the key(s) to communication?
- What records do you need to keep and how long?
- Who, when and how should you recognize people for EHS?

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133

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Any questions?

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134
