



Risk Management Solutions



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Use of Force: Does Your Policy Increase or Reduce Your Risk?

Terry Sanders • Police Safety Consultant • AMIC/MWCF

Use of Force in law enforcement has evolved over the years in response to better training, equipment and federal court rulings. In the mid-to-late 1980s, the U.S. Supreme Court issued rulings in two significant cases involving the use of force. The 1985 Supreme Court *Tennessee v. Garner* case ruled that under the Fourth Amendment of the U.S. Constitution, a police officer may use deadly force to prevent the escape of a fleeing suspect **only** if the officer has a good-faith belief that the suspect poses a significant threat of death or serious physical injury to the officer or others. In 1989 the Supreme Court in *Graham v. Connor* determined that an objective reasonableness standard should apply to a civilian's claim that law enforcement officials used excessive force in the course of making an arrest, investigatory stop or other "seizure" of a person. The court came up with a reasonableness test as a standard for determining whether the level of force was warranted in a particular case. To determine if a police officer used excessive force, the Court said juries have to consider, from the officer's point of view, whether the level of force matched his or her perceived danger of the situation. The Court stated that while "reasonableness is not capable of precise definition or mechanical application" a number of factors require careful consideration before an officer can use force against a citizen. These factors include:

1. Whether the suspect poses an immediate threat to the officer or others
2. The severity of the crime
3. Whether the suspect is actively resisting arrest
4. Whether the suspect is a flight risk or attempting to escape custody

Use of Force Policies

In developing a Use of Force policy, both of these important U.S. Supreme court cases must be addressed. In federal lawsuits, *Tennessee v. Garner* and *Graham v. Connor* are the standards officers will be held to. A well written policy will comport with all state, federal laws, court rulings and best practices. The policy must be reviewed annually to ensure it remains current. It should address the use of "Choke Holds" and the "Duty to Intervene". Choke Holds should only be allowed in life or death encounters. Your policy should state that "officers shall not knowingly allow other law enforcement officers to use unjustified or excessive force and will intervene in all instances". This includes rookies and seasoned veterans alike!

It is also important that a Use of Force policy not conflict with what officers are being taught at the police academy during their APOSTC certification. During the development of your model policy, check with APOSTC. At the police academies, officers are taught *Tennessee v. Garner*

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Hire character. Train skill. ~ Peter Schutz



Sprains and Strains: How can you prevent them?

Wade Campbell • GSP • Loss Control Representative • AMIC/MWCF

Sprains and Strains are part of the everyday workplace. They can happen suddenly or develop over the course of days, weeks or months. When a worker is exposed to certain risk factors, they are more likely to develop a strain or sprain. While these injuries are sometimes unavoidable, there are ways to prevent them from happening.

Causes of Sprains and Strains

As mentioned above, sprains and strains can happen suddenly or over time. There are two categories of risk factors: workplace risk factors and individual risk factors.

Workplace risk factors include:

- **Excessive force.** Many tasks may require high force loads on the human body. Muscle effort increases response to high force requirements can lead to fatigue which can lead to musculoskeletal disorders (MSDs).
- **Excessive repetition.** Many tasks are repetitive in nature. High task repetition, when combined with other risks factors such as high force and/or awkward postures, can contribute to the formation of MSDs.
- **Awkward posture.** Awkward postures place excessive force on joints and overload the muscles and tendons around the effected joint. Joints of the body are most efficient when they operate closest to the mid-range motion of the joint. Risk of MSDs is increased when joints are worked outside the mid-range repetitively or periods of time without adequate recovery time.
- **Other environmental factors.** Slip, trip and fall hazards also increase the risk of sprains and strains.

Individual risk factors:

- **Poor work practices.** Workers who use poor work practices, body mechanics and lifting techniques are introducing unnecessary risk factors that can contribute to MSDs. These poor practices create unnecessary stress on their bodies that increase fatigue and decrease their body's ability to properly recover.
- **Poor overall health habits.** Workers who smoke, drink excessively, are obese or exhibit numerous other poor health habits are putting themselves at risk for not only musculoskeletal disorders, but also for other chronic diseases that will shorten their life and health span.
- **Poor rest and recovery.** MSDs develop when fatigue overcomes the worker's recovery system, causing a musculoskeletal imbalance. Workers who do not get adequate rest and recovery put themselves at higher risk.
- **Poor nutrition, fitness and hydration.** For a country as developed as the United States, an alarming number of people are malnourished, dehydrated and at such a poor level of physical fitness that climbing one flight of stairs puts many people out of breath. Workers who do not take care of their bodies are putting themselves at a higher risk of developing a musculoskeletal and chronic health problems.
- **No recognition of early signs and symptoms.** Many MSDs develop over the course of time. At first signs of excessive fatigue or discomfort, the worker has an opportunity to recognize the early signs and symptoms and proactively use recommended injury prevention tools and principles. Not recognizing early warning signs leads to a reactive approach and it's only a matter of time until these signs and symptoms develop into an injury.

An Approach to Sprains and Strains

Prevention is better than treatment. Sprains and strains are uncomfortable and painful which we want to prevent from happening. To do that, you need a good plan that identifies and removes or limits risk factors that lead to a sprain or strain. There are two types of controls that can help you remove or reduce those risk factors: workplace controls and individual controls.

Workplace controls include:

- **Engineering controls** that eliminate or reduce awkward postures with workplace modifications that seek to maintain range of motion for joints to accomplish work tasks within the mid-range of motion positions for vulnerable joints.
- **Administrative controls** include work practice controls, job rotation, and stretch breaks.

Individual controls include:

- **Education and training.** Employees should be trained in all aspects of human performance, including ergonomics, MSD prevention and individual health and wellness. Formal classroom training and following up ensures the message is getting through.
- **Early intervention.** The early warning signs of future injuries are present. Early intervention is a proactive approach to discover early warning signs of MSDs and prevent injuries. This is sometimes the last line of defense between whether an injury will happen or not.

Proper Lifting Techniques

Lifting is one of the most common tasks that causes sprains and strains. To avoid injury, follow these steps for proper lifting and material handling.

1. **Warm up:** Your muscles need good blood flow to perform properly. Consider simple exercises and stretches to get warmed up prior to lifting tasks.
2. **Stand close to the load:** The force exerted on your lower back is multiplied by the distance to the object. Stand as close to the load as possible when lifting.
3. **Bend your knees:** Bending your knees and keeping your upper body upright allows you to use your legs to lift, rather than your back.
4. **Grip the load:** Do not lift a load if you cannot get a good grip. Some loads are not too heavy but simply too large to grip easily. Consider lifting such a load with someone else.
5. **Lower load in reverse:** You can easily injure your back putting something down as you did picking it up. Lower using your legs and keep the load close to your body.

Things to Avoid:

- Lifting and twisting at the same time
- Throwing bags or other materials
- Working while fatigued
- Rushing
- Reaching overhead

Identifying and having controls in place is the best way to prevent sprains and strains. Being able to identify a sprain or strain early can be the difference in staying healthy and safe or having a serious issue. It is not only up to the workplace but to the worker also to help create a safety environment so you can go home at the end of the day. **For more information, visit shrm.org and ehs.princeton.edu.** ■



Pete Folmar Joins Loss Control Team as SKIDCAR Coordinator

Pete Folmar joined the Loss Control Division on December 1, 2020, as AMIC/MWCF's SKIDCAR Coordinator and is responsible for traveling throughout the state training police officers and other municipal employees through the Division's popular proactive driver training program. He replaced Louis Zook, who is now serving as a Police Safety Consultant.

Pete served 26 years in Law Enforcement beginning in 1994 at the Anniston Police Department. He retired November 2020 after five years as Chief of Police in Helena. Prior to being appointed Chief, he served 19 years at the Pelham Police Department where he last served as the Commander of Criminal Investigations Division. He is a member of the Alabama Association of Chiefs of Police (AACOP) and a member of the International Association of Chiefs of Police. Pete has been an instructor in the AACOP New Chiefs Development Seminar and also served on the AACOP Education Committee. He holds a degree in Criminal Justice Administration from the University of Phoenix and is a graduate of the Northeast Alabama Police Academy and Leadership Shelby County. He is married to the former Tara Littlefield and they have six children. Two of their sons serve in the Alabama Air National Guard and one is a police officer at the Pelham Police Department.

For more information on AMIC/MWCF's SKIDCAR training: www.losscontrol.org. ■

Use of Force Policies continued from cover

and *Graham v. Connor*. Additionally, basic academy trainees are being taught a section of training on Duty to Intervene. No type of the choke hold is being taught at the police academies across the state.

The AMIC/MWCF Loss Control Division has a model Use of Force policy that can be downloaded at www.losscontrol.org under Reference Documents. This policy has had an excellent legal review to ensure it is current with applicable laws and court rulings.

With the resources available to your officers, every type of force used must be covered in the policy to include: Pepper Spray, TASER, Impact Weapon, Canine and Specialty Impact Ammunition. If you later employ other technology or equipment, it must be added. Written procedures covering these types of force should be in the Use of Force policy and not in separate written policies. Keeping them under one policy reduces the risk of having conflicts in multiple policies relating to use of force.

Make sure nothing is added to the policy that will not consistently be done. For example, it sounds good to state in the policy that all officers shall complete annual training in certain areas; however, unless this is carried out consistently, a plaintiff's attorney can easily prove that you have violated your written policy. If the officer involved in a federal suit did not complete the mandated training, the policy will be turned against you. A good rule is to never put anything in a policy as an absolute that you cannot do consistently.

Conclusion

It is not sufficient to just have excellent written policy on Use of Force. You *must* add this to your training program. A good time to cover Use of Force with your officers is when they qualify each year. At that time, you should go over the entire use of force policy having all officers sign off on the training. For more on this subject: *How Objective is the "Objective Reasonableness"*, Victor E. Kappeler, Ph.D.; Eastern Kentucky University Police Studies Online www.plsonline.eku.edu; and *Tennessee v. Garner*, 471 U.S. 1 (1985) <https://supreme.justia.com/cases/federal/us/471/1/>. ■

It's Time for Workers Comp Payroll Audits

It is time for the annual payroll audits to be processed for 2019. Some MWCF members will be subject to an independent audit from Overland Solutions, and those members will be contacted to set up an appointment. Members who are not subject to the independent audit will be receiving an Audit Request Form in the mail. Please fill in this form according to the instructions provided and return as soon as possible to our underwriters at Millennium Risk Managers.

All audit information is due by March 31, 2021. If you have not received a request by 1/31/21 or have any questions, please call Carla Thienpont at Millennium Risk Managers 1-888-736-0210.

Defining Moment

STATUTORY COVERAGE

Statutory coverage generally refers to insurance coverage mandated by law. This normally only applies to Workers Compensation insurance and is the minimum amount of coverage as set out by Alabama State Law. By using the term "statutory" instead of specifying the terms of coverage in a policy, should the law change, coverage will automatically reflect the change. Therefore, the policy will not have to be rewritten to reflect the new law.

2021 SKIDCAR Schedule

Through an advanced, computer-controlled driver training vehicle known as the SKIDCAR System, trainees learn how to react quickly and safely to a range of hazardous driving conditions. Training is conducted throughout the state at a minimal cost. If you would like to schedule or host a SKIDCAR session in your area, please contact Donna Wagner at (334) 262-2566 extension 125. **For more information, visit www.losscontrol.org.**

January 11 - 15	Montgomery	June 22 - 25	Thomasville
February 9 - 19	Orange Beach	July 19 - 23	Opelika
April 27 - May 7	Oneonta	August 17 - 27	Decatur
May 17 - 21	Ashland	September 14 - 17	Ozark



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- 5.062-DVD - A DUI Story... What If?
- 5.063-DVD - Defensive Driving for Government Employees
- 5.067-DVD - Distracted Driving (Focus on Texting and Driving)
- 5.068-DVD - Defensive Driving: 15-Passenger Vans
- 5.069-DVD - Defensive Driving: When Good Weather Goes Bad
- 5.079-DVD - Driving Safely in Hazards of Winter
- 7.044-DVD - Space Heaters
- 7.109-DVD - Working Safely in Cold Weather
- 7.130-DVD - Drowsy Driving: It's Your Wake Up Call
- 7.133-DVD - Resisting the Flu
- 18.002-DVD - Slip Sliding Away

**Video/DVD requests to: Sonya McCarley at: 334-386-8114
smccarley@almonline.org or FAX at 334-262-2809**

Need Help Filing Work Comp Claims?

For step-by-step instructions, visit:

www.almwcf.org

Employment Practices Law Hotline

1-800-864-5324

Through a toll-free Employment Practices Law Hotline, members can be in direct contact with an attorney specializing in employment-related issues. When faced with a potential employment situation, the hotline provides a no-cost, 30-minute consultation.

www.losscontrol.org