



40 YEARS : 1987 – 2027





Is this on your agenda?

COMMUNITY RISK MANAGEMENT



A toolbox for public officials
to organize a successful safety program.

MUNICIPAL EXCESS LIABILITY JOINT INSURANCE FUND · MEL ·

MEL

NEW JERSEY SAFETY INSTITUTE



MEL SAVES TAXPAYERS $4.5 BILLION

MEL has generated over **$4.5 billion** in savings for the 606 members of joint insurance funds it served over the last forty years. On average, each MEL/JIF member saved $7.5 million while receiving professional support and coverages needed to strengthen community safety.

MEL JOINT INSURANCE FUND MEMBER SAVINGS				
Member Joint Insurance Fund	Established	JIF Savings (millions)	JIF Membership	JIF Member Savings (millions)
Bergen	1985	$358.91	38	$9.45
South Bergen	1986	$322.09	23	$14.00
Atlantic	1987	$518.27	39	$13.29
Camden	1987	$292.47	38	$7.70
Mid-Jersey	1987	$225.76	17	$13.28
Morris	1987	$343.97	46	$7.48
Ocean	1987	$409.45	31	$13.21
PMM	1987	$111.33	5	$22.27
Monmouth	1988	$355.29	41	$8.67
Burlco	1991	$156.15	28	$5.58
NJ Utility Authorities	1991	$233.71	76	$3.08
Trico	1991	$309.13	35	$8.83
NJ Self-Insurers	1992	$85.23	5	$17.05
Suburban Metro	1992	$141.05	12	$11.75
NJ Housing Authorities	1994	$167.72	90	$1.86
Suburban Municipal	1994	$102.17	11	$9.29
PAIC	1997	$158.10	20	$7.91
Central	1998	$217.64	18	$12.09
First Responders	2009	$53.93	33	$1.63
TOTALS		**$4.5 Billion**	**606**	**Average $7.5 million**

The authors do not represent that the safety standards referenced in this publication are a complete discussion of these issues and recommend that public entities seek the advice of safety professionals in designing their safety programs.

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COMMUNITY RISK MANAGEMENT

A Toolbox for Public Officials to Organize a Successful Safety Program

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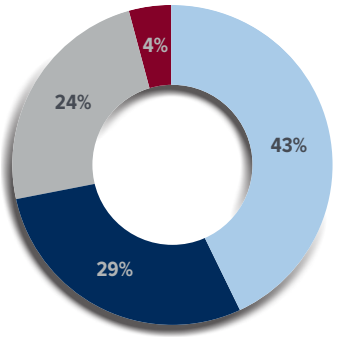
INTRODUCTION:

Almost every issue a public leader decides touches on safety. This is especially true at the local level. In this publication, we will discuss where you can get information to address the many safety-related issues on your agenda.

Insurance and related employee, liability, and property claims cost New Jersey government over $1.5 billion each year.

- 43% is employee related including workers' compensation.
- 29% is liability, including police misconduct, auto liability, general accidents, civil rights, and employment practices. Of special concern are issues related to children including playgrounds, sports, and child molestation.
- 24% insures property damage to local government assets including fire, flood, and vehicles.
- 4% are special lines including cyber and environmental.



- EMPLOYEE CLAIMS 43%
- LIABILITY CLAIMS 29%
- PROPERTY CLAIMS 24%
- OTHER COVERAGES 4%

EMPLOYEE SAFETY

Local government has one of the highest employee accident rates of any occupation. It is sobering to realize that local government has a higher accident frequency than either construction or underground mining. Public works has the highest accident rate, followed by police and then fire. Surprisingly, one of the most dangerous positions is school crossing guard.

It is the responsibility of every employer to provide a safe and healthy workplace. In a governmental entity, this responsibility rests on the shoulders of elected officials and the senior managers they appoint. You are not expected to be a safety engineer. However, you are accountable to make sure that an effective safety program is being implemented.

Six Steps to an Effective Employee Safety Program

1 MONITOR SAFETY PERFORMANCE

Managers communicate their priorities by what they monitor. One recent study concluded that organizations where senior management monitors the safety record have on average less than half the frequency of accidents than organizations where senior management does not know its safety record. The risk management program should be a monthly item on the governing body's workshop agenda.

2 EMPOWER EMPLOYEE INVOLVEMENT IN THE SAFETY PROGRAM

This begins with strong management support of the safety committee. Communicate to the workforce that everyone has the right to question something that appears unsafe, and that everyone must look out for each other. This includes the right to stop an operation if something does not seem right.

3 REQUIRE ALL PERSONNEL TO COMPLETE A SAFETY ORIENTATION AND PERIODIC REFRESHER TRAINING

The MEL created the MEL Safety Institute in 2003 and since then the employee accident rate has dropped as the number of people completing safety training increased. Go to the MEL's web site, (NJMEL.org) for complete details of the training programs offered to members.

4 REQUIRE SUPERVISORS AND CREW LEADERS TO DISCUSS SAFETY WITH EMPLOYEES AT THE START OF EACH SHIFT

Organizations where safety is discussed daily average less than half the frequency of accidents.

5 ACTIVELY PARTICIPATE IN ACCIDENT INVESTIGATIONS

When we say "participate", we do not mean simply read the reports – we mean get involved. Someone from management should go to the scene and drill down until the real causes are identified.

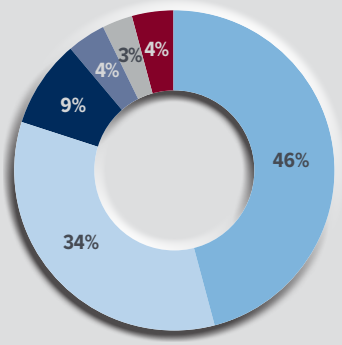
6 MONITOR PEOSHA COMPLIANCE

Your JIF periodically inspects local government facilities and audits compliance with PEOSHA regulations. These reports should be included in the monthly report to the governing body.

NJ LOCAL GOVERNMENT EMPLOYEE ACCIDENT FACTS

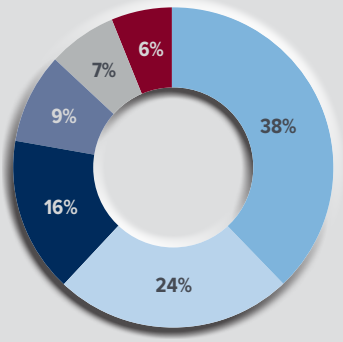
Lost Time Accidents per 100 Employees

FINANCE & INSURANCE	0.3
WHOLESALE, RETAIL TRADE	2.3
MANUFACTURING	2.6
MINING	2.8
CONSTRUCTION	3.1
TRANSPORTATION	4.0
STATE GOVERNMENT	4.3
LOCAL GOVERNMENT	4.3
ALL NJ EMPLOYERS	2.3



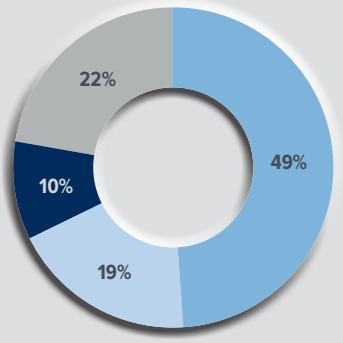
Municipal Accidents by Department

PUBLIC WORKS	46%
POLICE	34%
FIRE	9%
EMS	4%
ADMINISTRATION	3%
OTHER	4%



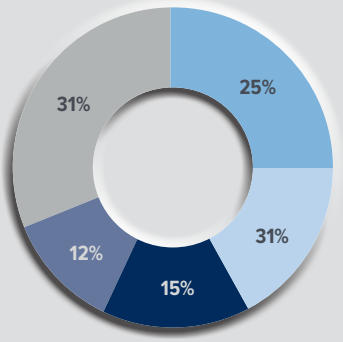
Utility & DPW Accidents

TRASH COLLECTION	38%
STREETS	24%
BUILDINGS & GROUNDS	16%
VEHICLE REPAIR	9%
WATER & SEWER	7%
OTHER	6%



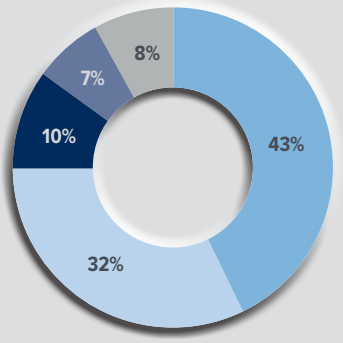
Utility & DPW Accidents

LIFTING	49%
SLIPS AND FALLS	19%
STRUCK BY	10%
ALL OTHER	22%



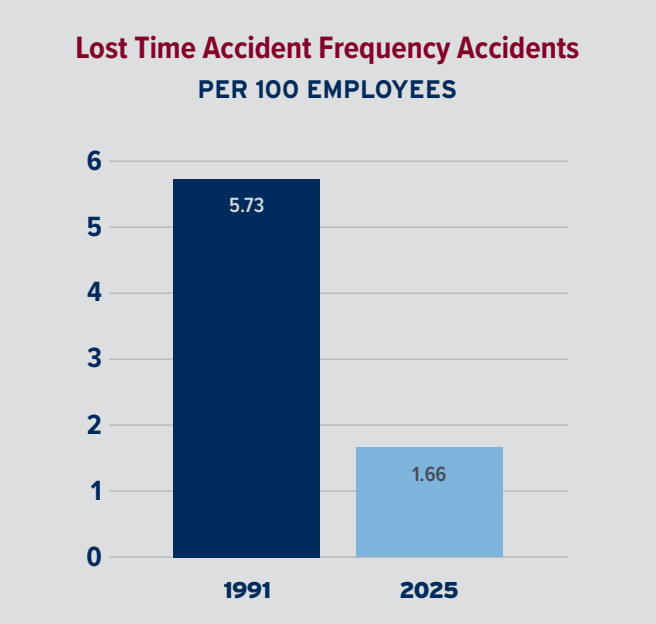
Law Enforcement Accidents

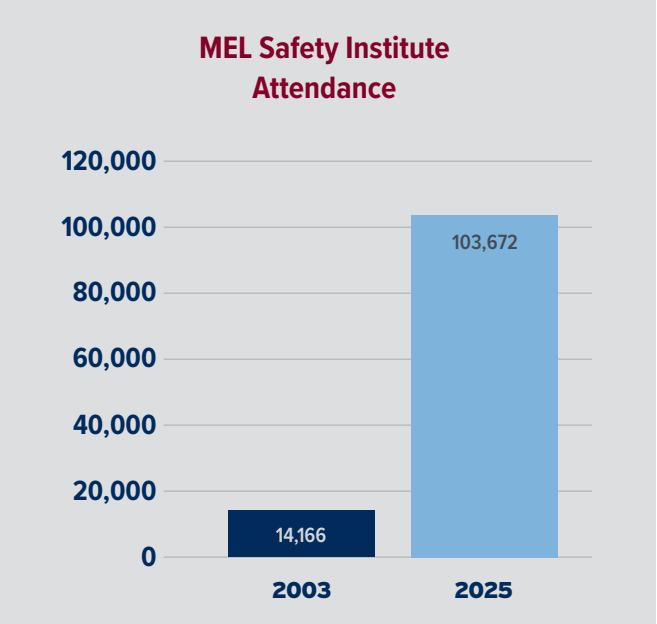
LIFTING	25%
MOTOR VEHICLE	17%
SLIPS AND FALLS	15%
ASSAULTS	12%
ALL OTHER	31%



Firefighter Fatalities

HEART ATTACK	43%
TRAUMA	32%
ASPHYXIATION	10%
BURNS	7%
ALL OTHER	8%





FROM 2014 TO 2025, THERE HAS BEEN AN INCREASE OF 191% IN **TRAINEES** AND A DECREASE IN THE **LTAF** OF (26%)

Risk Control Training

Since the MEL Safety Institute (MSI) was created in 2003, the accident rate has dropped in proportion to attendance at its the safety courses. The MEL provides 82 courses to its members at no additional cost. The MEL also provides:

- A program that maintains the training record of each employee and volunteer. These records should be periodically reviewed to make sure training is up to date.
- An extensive library of online videos that can be used at safety committee meetings.
- Basic management skills training designed for personnel coming up through the ranks. This training is conducted several times a year at locations throughout the state. Talk to your JIF's safety director to register eligible employees.

Risk Manager

Most towns retain a risk management consultant who is often a local insurance agent. These professionals assist in the operation of the safety committee and are responsible for other functions contained in each JIF's by laws. Risk managers are selected in accordance with the public contracts law including "pay to play" regulations. In most JIFs, the fees are about half of the commissions paid by commercial insurance companies.





Lifting and related shoulder injuries are the most frequent type of injury in public employment. The MEL's web site addresses this issue.



All DPW personnel must receive periodic training concerning work zones and the Manual for Uniform Traffic Control Devices.



The MEL works with the NJ Association of Chiefs of Police on programs aimed at reducing police injuries.



Under PEOSHA rules, all chemicals must be properly labeled. Employees must also have access to chemical safety data sheets.

Heart attacks are the most frequent cause of firefighter fatalities. Departments should require an annual reexamination consistent with NFPA Standard 1582, Chapter 7.4-7.7.

Firefighters are also 9% more likely to be diagnosed with cancer than the general US population. All departments should implement the recommendations of the International Association of Fire Chiefs "Lavender Ribbon Report".





EMPLOYEE HARASSMENT

It is estimated that employment practices lawsuits cost New Jersey public entities at least $100 million per year and that at least half of this is not covered by insurance. Fortunately, because of the MEL's extensive employee practices programs, these costs have stabilized in recent years.

Discrimination (53% OF CLAIMS)

The New Jersey's Law Against Discrimination (LAD) adopted in 1945 was the first such statute in the country. Most early employment lawsuits against local government involved equal opportunities. Women and other minorities were forced to use the courts to break into the governmental workforce. While overt racial or gender discrimination is now rare in the public sector, disparate treatment is more common. Today, we also see far more discrimination lawsuits arising from promotional disputes. That is why a formal management succession plan is so important.

Discipline and Termination

(33% OF CLAIMS)

In recent years, we have also seen a dramatic expansion of cases alleging violations of the Conscientious Employee Protection Act (CEPA), or "whistleblower act." CEPA was adopted by the New Jersey Legislature in 1985 to prevent the so-called "Serpico" situation, where a governmental employee is fired or demoted in retaliation for focusing the spotlight on official activity that harms or potentially harms the public.

Harassment (13% OF CLAIMS)

The New Jersey Division of Civil Rights reported:

- "81% of women and 43% of men have experienced some form of sexual harassment during their lifetime. This includes verbal, physical, and cyber harassment and sexual assault. Sixty-eight percent of women reported being sexually harassed in a public space, 38 percent at work and 31% at their residence. Sexual harassment affects people regardless of race, religion, gender, sexual orientation, gender identity or expression."
- "However, because it is fueled by power imbalances, marginalized communities including women of color, immigrants, domestic workers, LGBTQ+ people and others are uniquely vulnerable to sexual harassment."

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- Harassment flourishes where men dominate management and women have little power. For example, while the overall rate of sexual harassment is lower in government than the private sector, it should be no surprise that police agencies have a much higher rate.

The New Jersey Supreme Court made it easier to win harassment lawsuits in its landmark 1993 decision in Lehmann v. Toys R Us where it ruled that an employer is responsible for sexual harassment committed by its supervisory employees unless it has an ***effective*** anti-harassment program. The keyword here is effective. This decision extends to all harassment in the workplace based on an employee belonging to a protected class including race, national origin, disability, and sexual orientation.

NEW JERSEY SUPREME COURT GUIDELINES FOR AN EFFECTIVE ANTI-HARASSMENT PROGRAM

- Written policies and procedures prohibiting discrimination and harassment in the workplace. The MEL has responded by developing a model employment policies and procedures manual that is available on the website. This manual is updated every two years.
- Both formal and informal employee complaint procedures. This is included in the MEL's model manual.
- Training, which must be mandatory for management personnel and provided to all other employees. Every two years the MEL develops a training program specifically for managers and supervisors and a special training program for Police Chiefs. The MEL also distributes an updated training program for non-managerial personnel. The program is available on the MEL's website and can also be found on the MEL's Learning Management System.
- A system to monitor compliance "to make sure the complaint structure is trusted." For example, it is good practice to ask employees about any instances of harassment during their annual personnel evaluation.
- An unequivocal commitment from senior management that is not just words but action demonstrated through consistent practice. This is one of the reasons the MEL conducts seminars for elected officials each year.

To help members, the MEL has established a Helpline staffed by attorneys that specialize in New Jersey employment law.

- **Each MEL member can select two individuals to use the Helpline.**
- **After the call, the attorney will provide the member with a transcript of the call that includes recommendations.**
- **If the issue is beyond the scope of the Helpline, the attorney will provide direction to the member on where to get appropriate assistance. All calls are confidential.**



PUBLIC LIABILITY

The decisions made by local government impact everything that happens in a community. Almost any accident could result in a lawsuit against local government in absence of some reasonable limitation.

Government was protected by sovereign immunity until 1959 when the NJ Supreme Court ruled that governmental employees could be sued for failure to perform ministerial duties but not for discretionary activities. Over the next decade, the court struggled to determine what activities should have immunity, ultimately inviting the legislature to adopt a tort claims act.

Enacted in 1972, Title 59 provides governmental entities and employees with "modified governmental immunity" that draws the line between discretionary duties and ministerial actions. Under the act, all New Jersey public entities and employees enjoy immunity for the exercise of governmental discretion. However, Title 59 also provides that: "Nothing in this act shall exonerate a public employee from liability if it is established that his conduct was outside of the scope of his employment or constituted a crime, actual fraud, actual malice, or willful misconduct."

Ministerial duties are subject to a different standard. With some exceptions, Title 59 does not extend immunity to ministerial actions or inactions that violate civil rights or are "palpably unreasonable".

Law Enforcement

The largest single liability exposure is policing which inherently involves discretion, such as the decision to arrest someone. However, the exercise of police powers can also violate civil rights that are not immune under the act.

It is critical that police policies and training be kept current. The way to verify this is to have your police agency accredited. There are several accreditation programs that also provide model policies. This is an ongoing process that involves periodic review to make sure procedures and training are kept up to date. Many JIFs give a premium discount to accredited departments.

The MEL's Safety Department also includes retired command police officers to assist departments implement risk control programs. Your chief should meet with them at least annually. The MEL also provides extensive risk control training for police agencies.



Auto Accidents

Unless responding to an emergency, government vehicles are subject to the same auto liability standards as private motorists. Even in emergencies, first responders can be held liable for driving in a reckless fashion. Many agencies use simulators to practice emergency response.

Public Property

Title 59 provides broad immunity for injuries resulting from a defective design of public property after approved by the governing body. This immunity applies to any public project. The approval should be done by resolution. Once design immunity is triggered, it remains in force even if safety standards subsequently change.

Even with design immunity, governments are still required to properly maintain their facilities. For example, most communities have miles of sidewalks, and it is not possible to immediately repair every defect. Under Title 59 scarce resources immunity, communities can adopt an orderly program over time to correct hazards so long as the program is not "palpably unreasonable."

An important part of an effective safety program is a system to keep track of reported hazards and the corrective action taken.

Other Provisions

FIRE DEPARTMENTS AND AMBULANCE CORPS:

There is special immunity for fire departments and ambulance corps while "rendering in good faith any such services." Without this provision, the town would be sued after every fire or ambulance call claiming that the response was too slow, or the responders did an ineffective job. In very rare occasions, first responders can be held responsible for conduct deemed "willful or wanton."

SEWAGE BACKUPS:

Elected officials need to know how the town or authority responds to sewer backups. Generally, the town has no responsibility if the blockage is in the lateral between the street and the residence. The town may have responsibility under some circumstances if the blockage is in the main line and the town had previous notice of the problem. Most towns arrange for an emergency contractor who can be called quickly to clean up sewage. Do not admit liability. The adjusters will sort out the claim, if any.



CHILD MOLESTATION

Recent changes in the law have increased the potential liability for child abuse to both governmental entities and officials personally. Under 2019 legislation, local public officials can be held personally responsible if they fail to act. In the case of the sexual abuse of children, the legislature has also extended the statute of limitations to age 55, or later under some circumstances. This means that officials who fail to implement reasonable controls can be sued personally years or decades after they leave office.

Your governmental entity probably has arrangements for your defense and indemnification. However, you should talk with your municipal, board, or authority attorney to understand exactly how these defense and indemnification procedures work.

All governmental entities must have policies and procedures to deal with child abuse. A model policy and procedure can be found on the MEL web site.

- Background Checks. An effective program to protect children must start with background checks of all prospective employees and volunteers including fingerprint identification.
- Training: Everyone must be trained, beginning with elected officials. The MEL provides a complete package of training programs:

Common Types of Abuse

- Neglect: The failure to meet a child's basic needs, physically, medically, or emotionally.
- Physical Abuse: The intentional use of physical force that results in injury.
- Emotional Abuse: Acts that harm a child's self-worth or emotional wellbeing.
- Sexual Abuse: Engaging in sexual acts with a child, including pornography.

Statistics on Child Abuse in New Jersey

- Abuse reports involving 80,000 children are filed each year with child protective services in New Jersey.
- 75% of cases involve neglect. 18% of victims are physically abused, including sexual abuse. Psychological mistreatment accounts for 7% of cases.
- 37% of all children are reported to child protective services by their 18th birthday.
- Some 30% of these abused children will later abuse their own children.

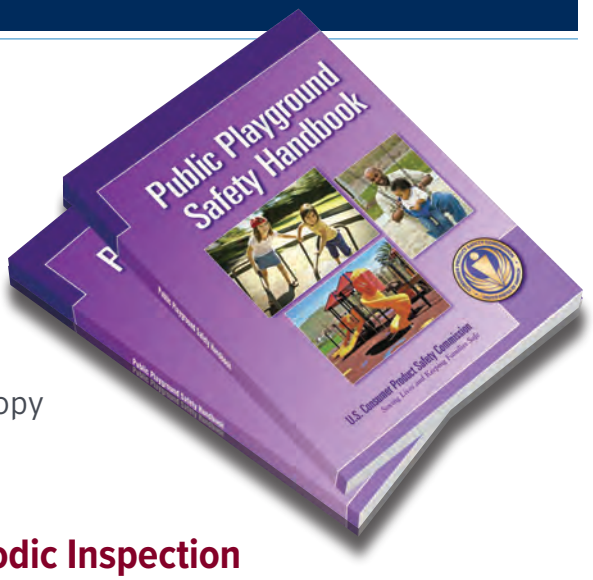
Role of Government

The State takes responsibility for enforcing the law through the New Jersey Family Division Courts in each county seat. These courts have broad powers and can take remedial action, including the removal of children from dangerous situations.

- The Department of Children and Families, especially the Division of Child Protection and Permanency, combines all State operations intended to safeguard children into a coordinated program that works closely with law enforcement.
- The Department of Corrections operates adult prisons and youth correctional centers. Individual counties operate youth detention centers and special purpose schools.
- Education professionals at the local level have the most contact with children and are often the first to detect issues. Housing Authorities and municipalities also come into contact with abused children.
- Police agencies assist in resolving reported situations, often acting as the first identifiers. New Jersey law gives police broad authority to protect children, including the authority to remove them from their parents or caregivers without a court order, if necessary, to prevent imminent danger to a child.

The Department of Children and Families maintains a hotline, 1 (877) NJ ABUSE or 1 (877) 652-2873, to report child abuse. Failure to report is a misdemeanor and could expose you to a lawsuit for damages. Fortunately, any person who, in good faith, reports suspected abuse or testifies in a child abuse hearing is immune to any criminal or civil liability that may result. You can also choose to report anonymously.

PLAYGROUND SAFETY



180,000 injuries are reported each year on playgrounds in the United States. The Consumer Product Safety Commission (CPSC) developed the playground safety standards (Publication 325) adopted by New Jersey. A copy can be downloaded from CPSC's website.

Initial Inventory

Retain a professional to inventory existing playgrounds and evaluate compliance. The inventory should be updated whenever there are major changes. Specifically identify the different pieces of apparatus, manufacturer, date of manufacture, location, age appropriateness and details on the protective surface. A separate file should be established for each playground.

Annual Audits

At the beginning of the year, review the file and perform a detailed physical examination of each playground. The audit should be the responsibility of someone who has received the necessary training. All repairs should be made before opening for the season. A similar audit should occur at the end of the season to begin planning for the following year.

Periodic Inspection

Inspections should be conducted at least monthly (or more frequently depending on usage) by maintenance personnel specifically trained to identify hazards and initiate repair procedures. If the repair cannot be performed on site, the apparatus should be taken out of service so that it cannot be used until it is satisfactory. All inspections should be documented along with corrective actions.

75% of all playground injuries involve falls. The surface below equipment must have an adequate protective surface. In general, the fall zone is at least six feet in all directions from any piece of equipment. It is especially important that these surfaces must be periodically inspected and maintained.



Plans for new playgrounds or major renovations must be prepared by a qualified architect and approved by the governing body by resolution.



All playground and recreational counselors must receive annual safety training. The MEL provides this training online.

ORGANIZED SPORTS

Each year more one million Americans are injured during recreational sports. Brain injuries cause more deaths than any other sports injury. Too often, concussions are untreated because few symptoms are visible to casual observers. In addition, an athlete may experience considerable pressure from spectators, teammates, and coaches to resume playing. Multiple concussions over time may result in cumulative damage while repeated concussions over a short period may lead to Second Impact Syndrome.

Signs of Brain Injury

Whenever an individual loses consciousness, the brain has suffered an injury. However, most brain injuries do not involve loss of consciousness. Therefore, it is essential for a coach to keep a player out of a game where there are any signs or symptoms of a concussion.

The term "concussion" is often used in the medical literature as a synonym for a mild traumatic brain injury. If a concussion is managed appropriately, the prognosis for complete recovery is good. The hallmarks of concussion are confusion and amnesia, often without preceding loss of consciousness. The amnesia generally involves loss of memory for the traumatic event but frequently includes loss of recall for events immediately before or after the head trauma. An athlete with amnesia may be unable to recall details about recent plays in the game or details of well-known current events in the news. Amnesia also may be evidenced by an athlete repeatedly asking a question that has already been answered.

The Rutgers SAFETY Clinic course was upgraded to include training on sports concussions. The CDC (Center for Disease Control) prepared a free online training program that produces a certificate upon successful completion of the course. All coaches, referees and other officials involved in sports activities should be required to complete at least one of these or a similar course and submit the documentation for the town's records. Parents should also be encouraged to take a course.

Leading Causes of Sports Accidents

BASKETBALL	260,000
FOOTBALL	222,000
SWIMMING	156,000
SOCCER	145,000
BASEBALL	116,000
SKIING	57,000
LACROSSE	55,000
VOLLEYBALL	39,000
HOCKEY	33,000
TRACK	15,000

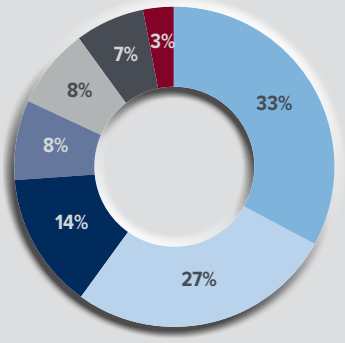
PEDESTRIAN SAFETY

A successful pedestrian safety program requires constant effort and cooperation between all levels of government. After years of improvement, pedestrian accidents have dramatically increased over the last decade. Children and senior citizens are involved in a disproportionate number of these cases. Pedestrian accidents are more frequent in urban areas but are more likely to be fatal in rural areas.

The MEL distributes – at no charge – a video, "Walk the Walk" that details the causes of pedestrian accidents and the strategies local and school officials can utilize to address these issues.

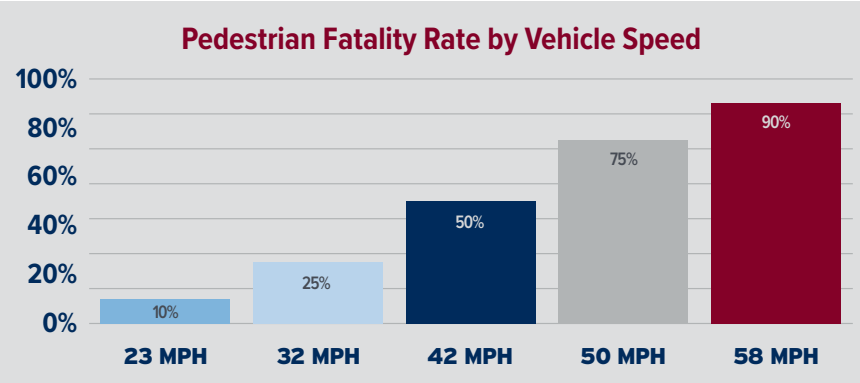
Intersection mishaps are the most common pedestrian accident. Senior citizens are especially vulnerable because they may not cross the street as quickly and often fail to notice vehicles in turning lanes. Children are more prone to mid-block accidents, especially where parked cars are present. Alcohol is a frequent factor in accidents where the pedestrian was struck while walking along a roadway.

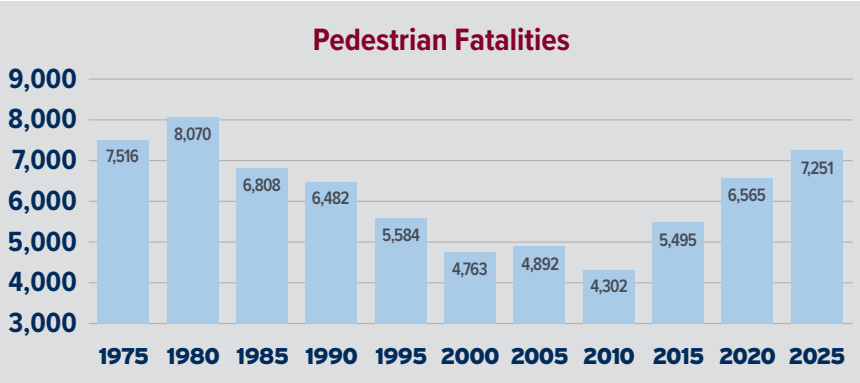
Increased speeds put pedestrians at higher risk. If a car traveling 23 mph hits a pedestrian, there is a 90% chance that the pedestrian will survive. However, the fatality rate increases to 25% at 32 mph and 50% at 42 mph. Reducing speeds, especially where pedestrians concentrate in residential and business districts must have a high priority in any pedestrian safety campaign.



Types of Pedestrian Accidents

INTERSECTION	33%
MIDBLOCK	27%
OTHER	14%
NOT IN ROAD	8%
WALKING ALONG ROADWAY	8%
BACKING VEHICLE	7%
ROADWAY	3%





Evaluation

Start by reviewing pedestrian accident reports and marking their location on a map.

Research has identified reoccurring accident factors.

- Intersections with two or more lanes in each direction have significantly more pedestrian accidents than intersections where there is only one lane in each direction.
- Two-way streets have significantly more pedestrian accidents than one-way streets.
- Sun glare is a contributing factor at intersections facing in certain directions and particularly at certain times of the year.
- Intersections on downhill grades are prone to speeding while intersections on uphill grades are especially prone to sun glare.

Engineering

Armed with this research, study possible engineering solutions. However, remember that traffic engineering is complex and the solutions that are appropriate in one situation may not work in another. Seek professional assistance when designing a pedestrian engineering program.

Education

Education must start with parents and schools. Police Departments often have a community resource officer who conducts educational programs for children. Training programs should also be offered to senior citizens – both as drivers and as pedestrians.

Another problem is the high frequency of accidents where school crossing guards are the victim. Many school crossing guards are senior citizens who are reaching the high-risk age because of losses in hearing, eyesight, and general mobility.

Enforcement

Consistent enforcement of traffic and pedestrian safety laws significantly reduces accidents. Your community should have a reputation for strictly enforcing traffic laws such as speeding as well as distracted and impaired driving. Pedestrian decoy programs where police officers dressed as civilians enter a crosswalk are also successful.



Bicycle Safety

- **Bicycle helmets are 88% effective in preventing brain injuries.**
- **1103 bicyclists were killed by crashes with motor vehicles in 2024.**
- **Although bicyclist deaths have decreased 4 percent since 1975, they have increased 55 percent since reaching their lowest point in 2010.**
- **Deaths among bicyclists younger than 20 have declined 90 percent since 1975, while deaths among bicyclists 20 and older have quadrupled.**



PROPERTY

Property insurance costs are increasing at a rate much faster than inflation because weather patterns are changing. The number of major weather-related natural catastrophes worldwide has almost tripled since 2000. While these figures are largely comprised of flood and wind events, other major risks are becoming a significant portion of loss, such as wildfires, landslides, and freezes.

Property insurance covers government assets and vehicles for a wide range of perils including fire, flood, earthquake, etc. The policy also covers collision damage to motor vehicles. Each year, values must be updated to make sure property coverage is adequate. Your risk manager is responsible for this process.

The safety committee should arrange for a semi-annual inspection of all facilities to identify and correct fire and other property hazards. Much of this is basic housekeeping. However, the inspection must also include the fire suppression systems (sprinklers, etc.), emergency exit lighting, generators, and other critical equipment.

Local government has special vulnerabilities that must be addressed. For example, garbage trucks should not be stored inside garages while full. The capital plan should include funds to update electrical wiring, heating, plumbing and roofs at least every 20 to 25 years.

What makes local government different is that it must remain operational during emergencies. As part of its evaluation of local vulnerabilities, the Local Emergency Planning Committee (LEMC) needs to evaluate each facility's exposures, both natural and man-made.

CRISIS COMMUNICATIONS

Most local governments need two related communications plans; one for issues that fall under the scope of the Emergency Management Coordinator (EMC) and a second to respond to other issues. The individual responsible for communications will probably be the same, but this individual may report to different officials depending on the type of crisis. Where the EMC is involved, the Communications Director should be a part of the Local Emergency Management Planning Committee (LEMC). Otherwise, the Communications Director will report to either the top elected official or CEO.

Communications Planning

Determine who will be in overall command for each scenario and who will be the Incident Commander. All media and public inquiries should be referred to the authorized spokesperson for comment; other staff should be professional and helpful by connecting them with the spokespeople but will neither speak to the media nor provide any information.

Do not release information until the person who has overall control of the crisis reviews the situation and authorizes the strategy. Craft "holding statement(s)" for delivering interim responses to the media to demonstrate that local government is taking ownership and not "stonewalling."

- "No comment" is never an acceptable response. If an answer is unknown or cannot be immediately answered, make a note of the question, and tell the inquirer you will get back to them. Be sure to follow through. If the question cannot be answered due to a policy, politely inform the inquirer.
- Personnel matters are to remain confidential except as required by the Open Public Meetings Act and the Open Public Records Act.
- Communicate the scope and significance of the problem(s) before promoting the solution. Once the solution is being implemented, communicate what's being done. Avoid speculation or placing blame. Focus on mitigating the crisis and protecting public health and safety.
- Remain in constant contact with key stakeholders, especially with schools, utilities, hospitals, and neighboring communities, if they could be affected.
- Without guessing or speculating, create realistic and honest expectations of the actual risk. Do not communicate unverified numbers, and quickly correct or clarify inaccurate and misleading statements.
- Involve independent third parties when possible and where their expertise is unique.
- Designate a liaison to stay in touch with the families of victims. Show empathy for people and place their concerns above costs.
- Ensure that the quality of the communications itself does not become an issue. Stay on message.
- At the end of the crisis, conduct a post-mortem evaluation: What worked well and what didn't?

CYBER

Local governments are prime targets for cybercriminals due to their sensitive citizen data, limited IT budgets, and frequent reliance on outdated infrastructure. Cyber vulnerabilities continue to increase as local government create "smart cities" that deploy internet-connected devices in public transit, solid waste management, traffic lights, water meter reading and security cameras.

To address the problem, in 2023 the MEL created a new "Special Purpose" JIF for cyber risk management. The CYBER JIF is now developing local government cyber security for the 2030s.

Every member local government receives basic cyber insurance coverage with deductibles that are based on the controls in place at the time of the loss. CYBER JIF also purchases critical risk control services on a state-wide basis and includes these services in the premium. This substantially reduces the cost and provides all members with basic controls.

Cyber Challenges

Local government faces three key challenges: the rising costs and frequency of attacks, the growing sophistication of threat actors, and the increasing complexity and interconnectedness of government IT systems. These trends, compounded by chronic resource shortages, make it increasingly difficult for local government to defend against attacks.

Municipalities are also experiencing wire transfer fraud where hackers monitor legitimate payment communications and send spoofed emails to the municipality requesting changes to banking and routing information. The attackers then use this information to transfer funds to their own accounts. Local governments are especially vulnerable to this scam because they handle large financial transactions, such as vendor payments, construction contracts, and municipal bond payments. Funds wired to a fraudulent account are successfully recovered less than 25% of the time.

Cyber Security

Local government cybersecurity is currently based on the idea that systems should be protected to prevent cyber criminals from breaching the system. The problem is that once bad actors get around these protections, they are free to rummage through and inflict damage almost at will. Therefore, cyber security is now switching to more proactive and automated resilience where the system itself identifies and deals with potential threats.

The future of cyber defense is defined by a few core strategies:

- **BROAD COLLABORATION:** Smaller jurisdictions need to pool resources and collaborate with their counterparts. This allows towns and local authorities to access enterprise-level tools and threat intelligence they couldn't afford independently. The CYBER JIF was created to facilitate this collaboration in New Jersey.
- **ZERO TRUST ARCHITECTURE:** Municipalities must move away from traditional perimeter defenses to a new "never trust, always verify" model, which restricts the lateral movement for attackers if a breach occurs. This will be the major emphasis over the next decade.
- **INCIDENT RESPONSE & EMERGENCY PLANNING:** With cyberattacks frequently targeting 911 dispatch centers and water plants, cybersecurity must be fully integrated into municipal emergency management plans. This is another object of Zero Trust Architecture.

The CYBER JIF's security strategy is to provide model policies and procedures along with basic risk control services purchased for all members on a group basis to lower the cost. These services include (i) employee training, (ii) phishing testing, and (iii) vulnerability management. Deductibles are based on the controls in place at the time of the loss.

Basic Security

- Weekly off-network backups
- Complex password policy or utilize latest NIST standards for passphrases
- Virtual Private Network (VPN) and Multi-Factor Authentication (MFA) for all remote connections
- Vulnerability management program to identify and install security and critical patches as soon as possible
- Annual cyber hygiene training for all network users, including phishing testing
- Annual leadership briefing on state of security for the organization
- Membership with Multi-State Information Sharing & Analysis Center (MS-ISAC) and New Jersey Cybersecurity Communication and Integration Cell (NJCCIC)
- Implement a Cybersecurity Incident Response Plan (IRP)
- Inventory your hardware and software

Advanced Security

(STANDARDS FOR LOWEST DEDUCTIBLES)

- Use an active discovery tool and Mobile Device Management (MDM) program to manage all network devices
- Network segmentation
- Deploy a data loss prevention (DLP) tool



- Increase backup frequency to daily
- Logging setup across network, including centralize collection and analytics
- Deploy a Protective DNS tool for the ecosystem
- Annual penetration testing
- Utilize a Privileged Access Management (PAM) tool

Wire Transfers and ACH Payments

- Include the Best Practices for Wire Transfer, ACH Payments, and Check Issuance protocol in the Annual Cash Management Plan.
- Review all agreements to be sure that CYBER /MEL JIF recommended language is included.
- Restrict wire transfers to infrequent or emergent matters, and real estate transactions, rather than for routine payments to vendors.
- Communicate "no exception guidelines" concerning wire transfer and ACH payment procedures.
- The Chief Financial Officer must utilize blocks and alerts ensure that any transactions not specifically authorized will be flagged by the banking system, and that the CFO must authorize each flagged transaction. Require the use of a Payee Positive Pay system for all checks and ACH transactions. Review daily any overnight transactions and balances to identify any unusual transactions or events.
- Identify at least two senior individuals who are authorized to execute and confirm wire transfers and ACH payments where Official 1 initiates and Official 2 confirms.

COVERAGE FOR LOCAL OFFICIALS*

Local governments, their officials, employees, and volunteers enjoy broad immunities to protect them from liabilities. Insurance and indemnification come into play to protect you when the immunities do not apply.

Insurance coverage issues can be complex and very fact sensitive. It is imperative that your local government retain a knowledgeable Risk Manager. Holes in coverage can occur if the terms and conditions of individual policies are not coordinated.

Governmental insurance policies cover a broad range of officials, employees, and some volunteers.

- Local elected officials are employees and enjoy all immunities and protections afforded to employees even if they are not paid.
- Some volunteers are also covered by the property and casualty insurance policies, specifically, volunteer firefighters, first-aid workers, and reserve or auxiliary police officers.
- Non-emergency volunteers may also be covered by most local government insurance except workers' compensation, depending on the circumstances. Check with your local government's Risk Manager to determine the coverage for volunteers.

Local government insurance policies only apply if the official, employee or covered volunteer is "on-duty," meaning that all the following are met:

- The individual was acting in a matter in which the local government has an interest.
- The individual was acting in the discharge of a duty imposed or authorized by law.
- The individual was acting in good faith.

Exceptions

- Electioneering is not covered because it is not in the discharge of a duty. For example, election opponents who sue each other for defamation will not be protected by their local government because they are not "on-duty" while campaigning.
- While General Liability policies cover defamation under limited circumstances, they exclude lawsuits between officials, employees, and volunteers. For example, suppose two elected Council Members get into a shouting match at a meeting and sue each other for defamation. In this case, they cannot look to the policies for defense and indemnification.
- Liability policies do not cover punitive and similar damages.
- Policies do not cover defense costs for criminal matters, even if you are acquitted.
- Standard homeowner's or personal umbrella policies often exclude coverage for officials while performing their official duties. Talk to your personal insurance agent about policies specifically designed for public officials. It is always a good practice to immediately report any potential claim.

Indemnification Ordinance

A well drafted indemnification ordinance can protect you from some of the exposures that insurance cannot cover. An ordinance is important because local governments must act to define this coverage. The MEL distributes a model indemnification ordinance.

*The discussion in this section is general in nature and is not a binding insurance policy and should not be used as an insurance policy.



HOW TO AVOID BEING SUED

- Elected Officials should constantly take training.
- Select professionals who know how to avoid and settle conflicts.
- Talk to your attorney BEFORE you do something.
- Let it simmer overnight.
- Reasonable people can take the same facts and come to different conclusions, reasonably.
- Know Roberts Rules of Order and establish the rules at reorganization.
- Enact a meeting curfew and speaker time limits.
- Consistently enforce rules of order.
- Avoid getting into a debate with the public.
- Recess when things get hot.

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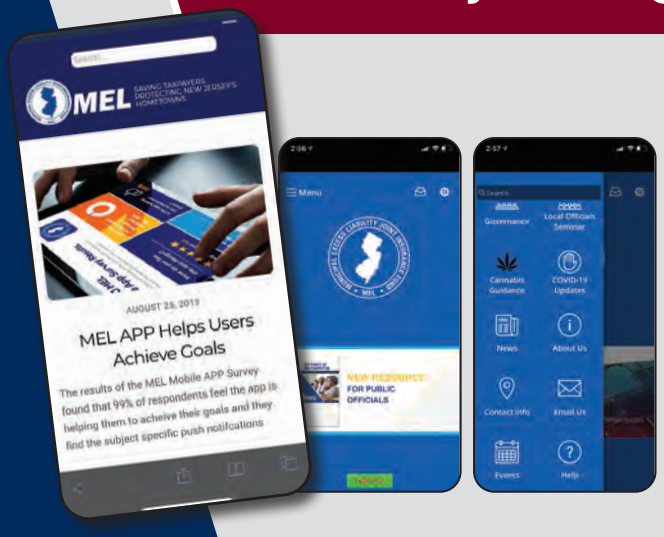

The MEL website is the best source for essential up-to-date information of vital interest to public Officials.

Access to the MEL Safety Institute

The MEL website also provides direct access to the MEL Safety Institute Toolkit and Course Catalogue for online, instructor-led webinars and live classroom training.

The NJ MEL Mobile App

The NJ MEL App is another way to gain immediate access to the MEL's information and resources. The App can be customized to provide the information you need and delivers push notifications regarding emergencies, regulatory updates, classes, and specialized information.

For instructions on how to download the NJ MEL Mobile App, access njmel.org.



THE POWER OF COLLABORATION

The MEL distributes a 189-page book, How to Avoid Being Sued to any member or professional free of charge.

MUNICIPAL EXCESS LIABILITY

JOINT INSURANCE FUND

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