



To Serve and Protect: CIRSA Resources For New Challenges Facing Law Enforcement

Presented by: Tami A. Tanoue, CIRSA Executive Director
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CIRSA General Membership Meeting 6.28.2023

Where We Are:

Toto, I have a feeling we're not in CO anymore!

- Massive changes are impacting the provision of law enforcement services in CO and elsewhere, and are creating enormous challenges in policing.
- What are some of the trends/challenges in the area of law enforcement liability (LEL)?
 - **Public sentiment** (and therefore jury sentiment) is changing
 - **Social forces** (e.g., social media + body-worn cameras) mean “social inflation” factor for claims – not just local community sentiment, but national and even international perceptions, can influence the course of a claim
 - **Legislative agendas** around “police reform” have impacted perceptions of law enforcement, liability exposures, and claims in CO; e.g., Senate Bill 217 (*Per NCSL: “Colorado is the first state to statutorily limit the use of qualified immunity as a defense in law enforcement cases at the state level.”*)
 - Leveraging all of the above, **claimants’ attorneys** have become increasingly adept at “litigating in the press” before the filing of any lawsuit.

Challenges in the LEL Arena

- These challenges make it much riskier to take LEL claims to trial, and much harder to settle these claims, especially for a reasonable amount. The upward trend is unsustainable:
 - \$1.3 million settlement in 2014 was our biggest ever at the time
 - A \$4 million settlement in 2017 was our biggest ever at the time
 - An \$8.75 million settlement in 2020 is now our biggest ever, at this time. Thought to be recording-breaking in Colorado...
 - ...and then Kiowa County broke our record (\$9.5 million)...and Aurora (\$15 million)...and Denver (\$14 million-protest verdict)...and recently, we and others participated in CO's biggest ever settlement - \$19 million
- As settlements and judgments increase, the cost of coverage increases, too

LEL Coverage

- At CIRSA, we currently provide \$10 million per claim/occurrence in law enforcement liability coverage. We are also providing coverage for the up-to-\$25k personal liability that police officers face as a result of S.B. 217
- If you have law enforcement, your LEL insurance cost makes up a significant portion—approximately 60%—of the total cost of your property/liability coverage through CIRSA
 - Going forward, we will be seeking ways to accommodate members' desires for both higher AND lower law enforcement liability limits. For 2024, we are offering members several options (\$2m, \$5m and \$10m) for LEL limits
 - We will fight to maintain the availability of high LEL limits, and will fight against per-member or pool aggregates
- But stay tuned—it remains to be seen whether high limits without aggregates will continue to be available on the market
- And for the foreseeable future LEL rates for all insurers and reinsurers will continue to climb

Other Challenges

- Meanwhile, “it’s hard to be a police officer” (heard at a CML newly elected officials workshop) and it’s hard to run a police agency – always true but even more so today than ever! Other challenges:
 - **Mandates are increasing but the funding isn’t.** Local governments are finding that the cost of providing LE services is also increasing.
 - **Recruitment and retention are harder than ever.** Social and legal environments are causing career changes, retirements, recruitment and retention challenges.
 - **“Piling on” is affecting agencies and officers.** Police are expected to solve all of the ills of the world in addition to crime-fighting. Homelessness? Opioid abuse? The pandemic? You cannot ask “too much” of law enforcement without that pressure causing cracks somewhere.
 - **Officer health and wellness.** As a result of all of the above, there is increased officer stress, burnout and attrition; increased risks of mistakes leading to injury to themselves or others; and corresponding negative impacts on officer health and wellness.
- What are you seeing in your police departments?

What Can Be Done?

- If you see law enforcement as a critically important community service, it **MUST** be treated that way with the selection of the people who perform that service, and with the prioritization of resources for recruitment, training, supervision, equipment, staffing, policy development, compensation & benefits, etc.!
- Some communities are discussing “defunding” their police departments...meanwhile, many other communities have never adequately FUNDED their departments.
- **You “can’t afford” to adequately fund your police department? You can’t afford NOT TO!!**
- Underfunding and/or understaffing your police department disservices EVERYONE: your officers, your municipality, and your citizens.
- In short, if you want your community to provide law enforcement services, you **MUST** make a commitment to funding properly.

What Can Be Done?

- In addition to adequate funding, governing bodies and city/town managers can help their agencies via their responsibilities for “civilian oversight.” Exercise these responsibilities by:
 - Making sure your entity’s organizational structure is set up to provide appropriate roles/relationships with the Police Department – not all organizations are!
 - Examine what barriers may exist in your organizational structure, and remove them, if possible
 - The city/town manager should be actively involved in management/oversight without micro-managing
 - Ensuring excellent lines of communication between and among the manager, Chief and governing body
 - Ensuring sound and consistent HR policies, programs and practices are established and followed
 - Ensuring that the Police Department’s internal and operating values, philosophies, and approaches are congruent with those of the rest of the entity (or have justifiable variations)
 - Setting the tone and expectations for issues such as transparency, ethics, community relationships, etc.
 - Supporting proper funding and resource allocation for excellence in personnel selection, supervision, training, equipment needs, etc.
 - What else?

What is CIRSA Doing?

- As you've perhaps seen, there are some calls for insurers to take an active roll in "police reform" via draconian measures such as mandated changes in personnel, policies, or training, or even imposition of department-side "performance improvement plans."
- How do you think this would sit with your Chief?
 - To quote one Chief: "I'll be damned if I let an insurance company run my police department."
 - To quote one CIRSA Executive Director: "_____"
- CIRSA views itself as a RESOURCE to its members.
- Our approach has always been to make RECOMMENDATIONS, provide RESOURCES, and seek ways to REWARD members for following best practices and offer SUGGESTIONS – carrot, not stick!
- That's why the CIRSA Board of Directors has allocated significant funding to initiatives that help provide law enforcement with resources they need to mitigate LEL risks, support officer health and wellness, and help their agencies succeed.

CIRSA Law Enforcement Resources

- CIRSA Law Enforcement Resources and Initiatives:
 - SIGMA wellness initiative
 - CORDICO mental wellness app
 - Individual time with Dr. Jamie Brower, a noted police psychologist for those facing stresses
 - Training opportunities through the CIRSA Risk Control Department, including:
 - Active Bystandership for Law Enforcement (ABLE) training
 - Regional Seminars
 - Law Enforcement Roundtables
 - CIRSA Law Enforcement Endowment Fund
 - Law enforcement policy review via the CIRSA Liability Hotline
 - \$25k individual liability coverage for officers
 - Risk Control Credits for safety program funding

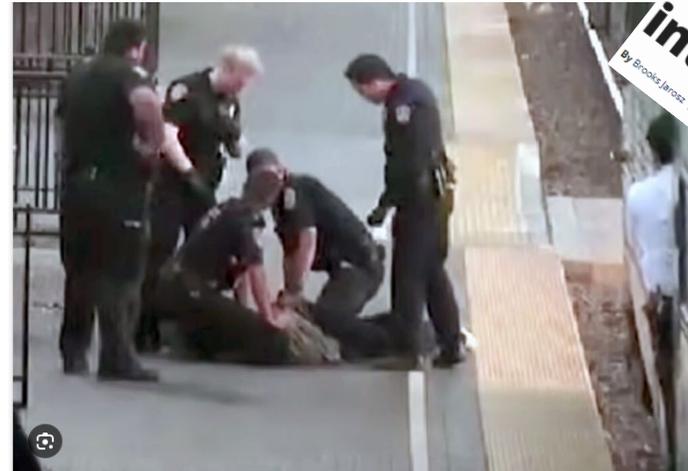
CIRSA Resources – SIGMA Tactical Wellness

- CIRSA partners with SIGMA Tactical Wellness to provide cardiometabolic screening for CIRSA member officers and first responders.
 - For 2023, CIRSA covers 50% of the total cost per agency or officer (with funding allocated for 400 participants).
 - “There is absolutely no question that the number one killer of active and retired law enforcement officers is heart disease.... Published data shows that, between the ages of 55 and 59, the chance of a civilian dying from a heart attack is 1.6%. However, within populations of police officers, it is substantially elevated at 56%.”
 - CIRSA funding of a portion of SIGMA costs may also help directly offset your other wellness program costs.
- Information & Registration at: <https://www.cirsa.org/news/sigma-tactical-wellness-program/>



CIRSA Resources - ABLE

- If you look at the legal pleadings (and videos) around the “worst of the worst” police excessive force incidents, you will read (and see) a common allegation/concern – “No one chose to (or felt they could) intervene!”
- The duty to intervene is a long-standing one. No one knows that more than police officers who have that duty. And, “No one hates bad cops more than good cops.” (Seattle Police Chief 2.3.18).
- With civil—and in Colorado, criminal—liability risks and expectations around this duty higher than ever, it is more critical than ever that officers get the training and support they want and need to do the right thing around intervention!



SDPD officers who watched MTS officers pin man, with knee on neck, face wrongful death lawsuit - The San Diego Union-Tribune

Judge approves \$500K in Richmond police failure to intervene case
By Brooks Jiroz | Published May 12, 2022 | Richmond | KTVU-Fox 2

A former Colorado officer is the first to be convicted of failure to intervene under state law
N'dea Yancey-Bragg
USA TODAY
Published 8:00 a.m. ET April 30, 2023



How to Enforce the 'Duty to Intervene' - The Crime Report

CIRSA Resources - ABLE

- Taught by Law Enforcement for Law Enforcement. Free to CIRSA members.
- “ABLE training provides practical active bystandership strategies and tactics to prevent misconduct, reduce officer mistakes, and promote health and wellness. ABLE gives officers the tools they need to overcome the powerful inhibitors to intervene in one another’s actions.”
- Upcoming CIRSA-Sponsored ABLE Trainings
 - July 19 – Silverthorne
 - August 31 – Trinidad
 - October 26 – Pagosa Springs
 - November 15 – Brush!



**REGIONAL LAW
ENFORCEMENT TRAINING**

Active Bystandership for Law Enforcement (ABLE) 8-Hour Core Training Program

Featuring State & National ABLE Instructors, Including Existing CIRSA Members

Information & Registration at: <https://www.cirsa.org/wp-content/uploads/2023/04/2023-ABLE-Regional-Training.pdf>

CIRSA Resources – LE Roundtables

- Perhaps more than any other municipal service, liability exposures in law enforcement are directly influenced by developments in the law. Keeping current must be a priority for your agency!
- CIRSA's free Law Enforcement Roundtables are designed to keep member agencies apprised of emerging and current police liability concerns.
- Taught by experienced police liability defense attorneys, they understand and speak to the practical, on-the-ground liability issues that police agencies and officers face.



CIRSA
LAW ENFORCEMENT
REGIONAL
ROUNDTABLES

FEATURING **ERIC M. ZIPORIN** or **JONATHAN N. EDDY** SGR, LLC

CIRSA is excited to announce the 2023 Law Enforcement Regional Roundtables. Eight events will be hosted around the state covering a variety of pertinent law enforcement issues, emerging and current police liability concerns, and other topics requested by law enforcement. Please see the agenda below for more details. These seminars are open to all member police departments and risk control contacts. Please pass this on to other staff who may be interested in attending.

AGENDA:

| | | |
|------|--|---|
| 8:30 | Registration | |
| 9:00 | Entering into Residences: Legal Refresher and Recent Case Law | |
| | Recent Decisions on Qualified Immunity from SCOTUS and the Tenth Circuit | |
| | | Mitigating Liability - Common Mistakes that Create Liability and Impact the Defense of the Case |
| | | Supervisory Liability - Claims that can be Asserted Against Law Enforcement Supervisors |
| | | The Litigation Process and how it Affects You |

CIRSA Resources – LE Roundtables

- Upcoming CIRSA Law Enforcement Roundtables:

- July 13 – Carbondale
- August 3 – Greenwood Village
- August 16 – Golden
- September 21 – Montrose

- Information & Registration at:

<https://www.cirsa.org/wp-content/uploads/2023/02/Law-Enforcement-Regional-Roundtables-2023.pdf>



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| | | • The Litigation Process and how it Affects You |

CIRSA Resources – Officer Wellness



- CIRSA has contracted with BPS to provide complimentary counseling service for member law enforcement officers.
- The service is intended to provide two CIRSA-paid sessions to assist in mitigating and stabilizing sensitive situations.
- Sessions are confidential and arranged directly with BPS pursuant to eligibility criteria.
- <https://www.cirsa.org/news/brower-psychological-police-public-safety-services/>



CORDICO WELLNESS APP FOR CIRSA MEMBERS

- CIRSA has partnered with CORDICO to provide access to a CORDICO wellness app designed specifically for law enforcement.
- CIRSA member police departments receive free access to either an individualized agency app (for agencies with 75+ officers) or a statewide app.
- The app provides access to numerous wellness features, including self-assessment tools, counseling and mental health check-in tools, and information on a variety of wellness topics.
- <https://www.cirsa.org/news/cordico-wellness-app-for-cirsa-members/>

Summing Up

- CIRSA's insureds include 88% of Colorado's cities and towns, with more than 150 law enforcement agencies employing more than 4,000 peace officers.
- As a pool insuring—and as members providing—law enforcement services throughout Colorado, it is important we collectively rise to the challenges facing law enforcement.
- At CIRSA, we are always looking for more and better ways to help elevate our members' practices, including through provision of risk control programs and services that are tailored to our members' needs.
- What else do you think we at CIRSA can or should be doing with regard to the challenges facing law enforcement? We value your input!
- THANK YOU for undertaking all of the challenges of local government, and most especially those around law enforcement.

About the Colorado Intergovernmental Risk Sharing Agency (CIRSA)

- Public entity self-insurance pool for property, liability, and workers' compensation coverages
- Formed by in 1982 by 18 municipalities pursuant to CML study committee recommendations
- Not an insurance company, but an entity created by intergovernmental agreement of our members
- Total membership today stands at over 280 member municipalities and affiliated legal entities
- Member-owned, member-governed organization
- No profit motive – sole motive is to serve our members effectively and responsibly
- CIRSA Board made up entirely of municipal officials
- Seek to be continually responsive to the liability-related needs of our membership – coverages and associated risk management services, sample publications, training, and consultation services, as well as specialty services such as home rule charter review
- We have the largest concentration of liability-related experience and knowledge directly applicable to Colorado municipalities

Speaker Bios

Tami Tanoue has been CIRSA's Executive Director since August, 2018. Her previous positions with CIRSA include General Counsel/Deputy Executive Director and General Counsel/Claims Manager. She was previously in private practice with the law firm of Griffiths, Tanoue, Light, Harrington & Dawes, where she served CIRSA as its contract General Counsel for 12 years, and was City or Town Attorney for several Colorado municipalities. Prior to that, she was Staff Attorney for the Colorado Municipal League, where she represented the collective interests of Colorado municipalities. Tami is a regular speaker on local government liability topics and has written several publications on liability issues. (Contact Tami at tami@cirsa.org.)

Sam Light is Deputy Executive Director/General Counsel for CIRSA. Prior to joining CIRSA in 2018, he was a partner with the Denver law firm of Light | Kelly, P.C., specializing in municipal and other public entity law, insurance law, and defense of public entities and elected officials. Sam has over 25 years of experience serving as general or special counsel to several Colorado cities, towns, self-insurance pools, and other public entities, and he is a frequent speaker on public entity risk issues. (Contact Sam at (saml@cirsa.org.)