

# Risk Advisor



SPRING 2019

## Checklist of Security Practices for Community Centers in Texas

Concern about security issues at community center facilities has been growing over the last several months. The general climate of violence in the country has contributed to this concern, as well as the accumulation of active shooter incidents at schools, churches, concert venues and other places where people gather. There have also been incidents at centers that raise concerns about security. Many of the incidents relate to clients lashing out as a result of frustration, de-compensation or cessation of pharmaceutical compliance. As a result of concerns expressed at some centers Fund Loss Control and Risk Management

walk through center doors. All doors should be evaluated for security measures appropriate to the use, location and type of traffic through the door. Most doors should be locked and only accessible with key or swipe cards during the day. Only doors into public areas should be unlocked and those lobby areas should require “buzz through” unlocking to allow movement from the lobby into office and therapy areas. Doors away from public areas should always remain locked and never propped open for someone’s supposed convenience. Clinics or offices in smaller communities that are not staffed in the lobby or public area should remain locked at all times if there are staff members



Consultants have performed security reviews for centers that look at current security systems and make recommendations for improvements. The following list of recommendations was developed during the site visits. They are intended to address both internal and external threat sources and pose commonsense and economical solutions to security threats.

1. Establish and maintain a great working relationship with local law enforcement agencies. Find ways to cooperate with them, divert mental health clients from local jails, provide training and generally make their jobs easier.
2. Understand law enforcement procedures and response priorities for 911 calls.
3. People who cause center security issues usually

working in offices. Provide a doorbell if clients or delivery people need access.

4. Video cameras should provide a view of doorways, parking lots, building perimeters and outbuildings. They not only provide a view of visitors to a facility but a record of events that take place during or after hours. Monitoring sites should be where someone can see the monitors on a current basis and should have a recording capability. Recordings should be kept a few days to allow time for review of possible security incidents.

5. Offices used for conferences or treatment should be arranged to prevent entrapment of the therapist or counselor by irate and aggressive clients or their family members. Offices should be set up to allow the counselor unimpeded access to the door. If this is not possible because of the size or lay-out of the office, a

conference room or other available office properly arranged to prevent entrapment should be used for the session. Drug counseling offices adjacent to pharmacies should also be set up to prevent entrapment.

**6.** Outdoor lighting should be maintained and free of obstruction especially over parking lots and pathways leading to parking areas. Trees and other vegetation should be trimmed to provide optimal illumination.

**7.** Landscaping should be trimmed so that concealment is not possible near traffic areas or doorways. Trees and shrubbery should not obscure camera field of vision or effective lighting.

**8.** An adequate number of security guards to provide coverage in parking lots, lobbies and around the premises can be effective in preventing and reporting incidents. In some high traffic or high crime areas the use of law enforcement officers on a part time basis can effectively augment the security presence.

**9.** Some form of alert system should be in use. “Panic buttons,” intercom or public address using code words can be effective ways to call for help and alert other staff to danger. Case managers and others working remotely should be provided with “SafeSignal” or other cell phone alerting device. Intercom coverage should be complete and audible throughout the facility. Where center facilities are in premises leased or shared with others, discussion of center security concerns should take place with landlords and other major tenants.

**10.** A basic suite of lobby security measures should include:

- ★ A glassed in reception counter with sufficient staff to insure efficient processing of clients and shortened wait times to reduce client frustration levels
- ★ Glass partitions for receptionists that are impact resistant
- ★ Cameras that can observe all areas of the lobby
- ★ A lobby ambassador in addition to security staff to help answer questions and check appointment status for waiting clients
- ★ Periodic observation of the lobby by a seasoned clinician to help spot potential problems
- ★ Easily accessible restrooms for client use only
- ★ A welcoming but firm approach to walk-ins to establish expectations and divert them to a near future appointment if they are not able to be seen that day



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## **Risk Advisor**

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- ★ Ability to use a metal detecting wand for weapon or contraband detection at all lobby locations not equipped with a scanning system
- ★ Escort of clients to appointments and their return to the lobby
- ★ Doors from the lobby to office areas that require key pad, card swipe or buzz-in

In some locations or during certain times of day enhanced lobby security measures could also include:

- ★ Additional security officers so the lobby area or parking lot can have a full time security presence during periods of heavy traffic
- ★ Part time law enforcement during heavy traffic times, usually mornings
- ★ Scanning for all clients and visitors

*Each location should be evaluated for additional security measures warranted by the specific conditions at that location.*

11. Medical Records rooms should be staffed at all times with a physical barrier in place to prevent easy access. When records staff leave, the room must be locked to prevent access by anyone. Although incidents involving HIPAA violations are rare they can pose the most serious and expensive risk to the center.

12. An incident reporting system will help center security staff identify problem areas and allocate resources to reduce security risk. An Incident/Accident investigation process should be in place to learn from events and provide a basis for future prevention.

13. Never leave a laptop anywhere in a vehicle when the center employee is not in the vehicle. Stolen laptops expose the center to the cost of replacement and potential for HIPAA violations and cyber incursions.

14. Transportation of clients poses risk to both client

and center employee. The risk of an automobile accident is very high as center drivers generate hundreds or thousands of miles over the road each day. Effective driver training and van driver training offered by the Fund can help. The MVR program that determines acceptability of center drivers is also a tool to encourage good driving. Another risk emerges when center case managers transport clients to appointments, shopping or psychiatric facilities. Client profiles should be checked prior to transport with particular emphasis on prior violent behavior. If the transport is necessary and an alternative is not available two staff members should accompany the potentially aggressive client.

15. Staff members should never transport someone who is only a potential or prospective client of the center prior to an initial assessment. Public transportation or taxis should be used to bring potential clients into the center clinic for initial evaluations.

16. Facilities housing more than one department or function should conduct drills for the whole facility, not just one department.

17. Break rooms and kitchens often contain knives that could be used against staff and other people. Sharp knives in any location accessible to clients should be in a locked drawer or cabinet. Cleaning chemicals in kitchens or utility areas also pose the potential for use as a weapon and should be effectively secured.

Fund Loss Control and Risk Management Consultants can assess your locations and review policies and procedures regarding security and

generate a report with recommendations. There is no guarantee that any security measure will prevent all incidents but a center can make it harder for someone intent on violence or property crime so they might consider an alternative target.



## LOCKOUT

Called when there is a threat or hazard **outside** of the school building. Whether it's due to violence or criminal activity in the immediate neighborhood, or a dangerous animal in the playground, Lockout uses the security of the physical facility to act as protection.



## LOCKDOWN

Called when there is a threat or hazard **inside** the school building. From parental custody disputes to intruders to an active shooter, Lockdown uses classroom and school security actions to protect students and staff from threat.



## EVACUATE

Called when there is a need to move students from one location to another.



## SHELTER

Called when specific protective actions are needed based on a threat or hazard. Training should include response to severe weather threats and hazmat incidents.



## HOLD

Called when a situation requires that students remain in their classrooms or in another area, in order to keep hallways clear and away from an incident or situation.

## Avoiding Claim Pitfalls

The Fund's claims adjusters try to make the process of filing a claim and recovering damages as fair, easy and simple as possible. But, like many things in life there can be complications and complexities that thwart the desire for simple solutions. Recent claims activity has brought to light some of the complications that can be prevented with thorough claims management by both the Fund and the member.

### Old Hail Damage

One set of complications arises when hail season rolls around (of course, in Texas that could be any time of the year). In some cases new hail damage to a roof reveals that old hail damage was never repaired. The unrepaired damage makes it very difficult for the independent adjuster who is climbing up on the roof to determine the extent of new damage from the recent event. Further complication arises when it's discovered that the payment for the "old" hail damage was not used to make repairs. When the original damage was considered just cosmetic and did not result in immediate leaks it was tempting to deposit the check and not make repairs.

The same situation can occur with hail damaged

unrepaired roof creates a complicated situation for the adjuster and the member. The most common response is to adjust the claim without consideration of the prior payment but to tie the payment to the actual repair of the damage. This insures that the damage is repaired properly and there is no future conflict about unrepaired prior damage. The repair also prevents subsequent damage from rain or other moisture infiltration into the building. This is the fair result to the member and to the other Fund members whose contributions go to pay for all claims.

Another common approach is to deduct the previous claim payment from the current estimate as part of the settlement. Most claim settlements track the progress of the repairs performed by contractors or body shops. The first payment is based on an "actual cash value" estimate that is based on the depreciated value of a property or vehicle. When the work or repair is completed the rest of the "replacement value" is paid as final settlement of the claim.

What if the unrepaired roof leaks and causes more damage? Another issue adjusters have seen with "old" damage claims is the member's attempts to repair the original damage when leaks develop and



vehicles. Cosmetic damage does not affect the operability of a vehicle but sending numerous vehicles for repairs can pose real issues with the member's ability to deliver services. Adjusters have the same problem with old hail damage on vehicles when the latest more serious hail storm has done enough damage to make a car dangerous to drive (windshield breakage).

How does the Fund adjuster fairly treat the member in the repair of the recent damage when there is also old damage? The combination of old damage, an old claim payment and new damage to a previously

recur over time. Sometimes the damage from a leak also becomes a claim that could have been prevented if the original damage was repaired properly to begin with. And that is the answer to this problem. Repair the original damage with a competent, qualified contractor or body shop that guarantees their work.

The Fund's Property Coverage document also contains a provision related to old damage that has not been repaired in a timely way. In the definitions section under "replacement cost" there is a final provision stating:



*If however, the property damaged or destroyed is useless to the member or is not repaired, rebuilt, or replaced on the same or another site within two years after the loss or damage, the Trust shall not be liable for more than the actual cash value of such property.*

## Property Not Reported to the Fund

Issues also arise when a claim is reported on property that is not listed on the member's property schedule with the Fund. Technically, the claim should not be covered because the property was not listed and contributions were never collected. In cases of accidental oversight, rather than deny coverage the Fund may pay the claim then collect past contributions that would have been charged to the member if the property had been listed. The solution to this oversight is for the member to confirm the list of properties reported to the Fund at each renewal against their own asset schedule. Another result of discrepancies is that the Fund will charge for properties that have been sold sometime in the past but the Fund was never told about the sale of the property. Then the member is due a refund of contributions. Both of these issues can be prevented by thoroughly reviewing the member's property schedule and communicating with Fund customer services representatives.

## Problems with Contractors

Texas state law requires that contractors doing construction work for public entities must carry workers' compensation insurance. The following section of Title 5, Chapter 406 of the Labor Code states the requirement:

*Sec. 406.096. REQUIRED COVERAGE FOR CERTAIN BUILDING OR CONSTRUCTION CONTRACTORS. (a) A governmental entity that enters into a building or construction contract shall require the contractor to certify in writing that the contractor provides workers' compensation insurance coverage for each employee of the contractor employed on the public project.*

*(b) Each subcontractor on the public project shall provide such a certificate relating to coverage of the subcontractor's employees to the general contractor, who shall provide the subcontractor's certificate to the governmental entity...*

*(d) The employment of a maintenance employee by an employer who is not engaging in building or construction as the employer's primary business does not constitute engaging in building or construction.*

*(e) In this section:*

*(1) "Building or construction" includes:*

*(A) erecting or preparing to erect a structure, including a building, bridge, roadway, public utility facility, or related appurtenance;*

*(B) remodeling, extending, repairing, or demolishing a structure; or*

*(C) otherwise improving real property or an appurtenance to real property through similar activities.*

*(2) "Governmental entity" means this state or a political subdivision of this state. The term includes a municipality.*

Does the member want to pay for the contractor's workers' compensation coverage? Settlement of a recent large claim revealed that the general contractor did not carry workers' compensation insurance during the period of re-construction of a building damaged by fire. Since the Fund would have to pay a workers' compensation claim on an uninsured contractor's employee the center was charged for the contractor's workers' compensation coverage because there was no evidence of coverage in file at audit. This incident could have been prevented with the requirement of a certificate of insurance from the contractor and the sub-contractors before the work began.

After widespread hail storms or other catastrophes, impacted areas are swarmed with roofing contractors, body shop and "paintless dent repair" sales people and public adjusters. The Fund always recommends that a center use reputable auto hail damage repair firms and roofers that have been in business in your area for many years. The third type of firm mentioned above, public adjusters, are paid a percentage of the claim settlement thereby reducing the amount a claimant may receive. The Fund's adjusters work very hard to fairly settle all the claims they handle and thoroughly understand community centers and their need to get back in business as soon as possible. If there is a serious dispute about a claim, the member may appeal directly to the Fund's Board of Trustees for a decision. It is very unlikely that a public adjuster would bring any value to a claim handled by the Fund.

## Dueling Estimates

When contractors really want your business they may present a bid that significantly undercuts other bids you may have received. A large difference in bids is a bright red flag that says examine the bid very carefully to make sure all aspects of the repair have been considered. The Fund's property coverage promises to return the member to essentially the same condition they were in before a claim causing event. The adjuster and the field adjuster who is looking at the damage are good sources of advice about the adequacy of a contractor's bid. Sometimes a low bid indicates the inexperience of a contractor who may not be able to finish a project at the quoted price or in a timely fashion.

## Obsolete Equipment

How does an adjuster determine the value or replacement cost of old computers and software that has been working for years before it was damaged and is also prone to rapid obsolescence that affects all computer systems. The definition of "replacement cost" has the answer to this dilemma. Replacement cost includes

1. the cost to repair; or
2. the cost to rebuild or replace, all as of the time, when with due diligence and dispatch the rebuilding or replacement could be effected, on the same site, with new materials of equivalent size, kind, and quality; or
3. on buildings or structures, machinery, fixtures, and equipment: the actual expenditure incurred in rebuilding, repairing, or replacing the damaged or destroyed property on the same or another site, but not to exceed the size and operating capacity that existed at the time of loss; or
4. on all other property: the amount actually expended to replace.

The definition gives the adjuster plenty of latitude to arrange a fair settlement for replacing obsolete equipment with something new that duplicates (and probably exceeds) the original "operating capacity."

There is an exception to the replacement cost provision for some property coverage. Mobile equipment like lawn mowers, janitorial equipment, portable or back-up generators is covered for "actual cash value." The same underlying commitment to the member is used to adjust mobile equipment

claims. A fair settlement takes into consideration the condition of the machine at the time of loss and market values of available equipment of the same or similar make and model.

The Fund's adjusters will do everything they can to reach a fair and thorough settlement with members. Members can help by getting the documentation they need and being responsive to their attempts to communicate with you and contractors and body shops that are doing the repairs.

## Safety Seminar Season Starts in May

TCRMF Risk Control Consultants have been developing their presentations for the 2019 round of Safety Seminars. Topics for this year's workshops are:

- ✦ Current TCRMF Claim Trends – TCRMF Workers' Compensation Claims Experience 2008 – 2018
- ✦ Driving Safety
- ✦ Ergonomics, Sprains and Strains
- ✦ Safety out in the Field
- ✦ Security and Threat Assessment

Topics are selected based on feedback from members, most frequent kinds of injuries and emerging claims trends observed by the Fund. Improper ergonomics while working can lead to disabling injuries due to strains and repetitive trauma. Activities like lifting, trying to catch an off balance client or sitting in front of a computer can cause injuries if proper ergonomics are not employed. Strains and sprains are the most common injuries whether they are caused by poor ergonomics or slips and falls. Another source of serious injury and cost to the center comes from driving center vehicles. Automobile accidents can result in workers' compensation claims, damage to the center's vehicle and injury to clients and occupants of the other vehicle involved. The important safety reminders for case managers and others who visit client homes will be presented. Overall Security for centers will also be explored in light of the sometimes dangerous world center facilities inhabit. The claims analysis presented in the workshop will illuminate the impact of all of the negative aspects of the topics presented in the workshop.

As usual the workshops will be presented at several locations around the state. Members are welcome to attend any one

of the workshops but we have chosen locations convenient to most members. The following are the dates and locations for 2019:

- ✧ Andrews Center, Tyler, May 1, 2019
- ✧ West Texas Centers, Big Spring, June 12, 2019
- ✧ Starcare, Lubbock, July 10, 2019
- ✧ Center for Health Care Services, San Antonio, July 18, 2019
- ✧ The Harris Center, Houston, Aug. 28 & 29, 2019
- ✧ MHMR Tarrant County, Fort Worth, Oct. 2, 2019

The materials presented are designed to enhance the knowledge and capabilities of any district employee who has safety or risk management responsibilities including supervisors, safety officers, emergency response team members, risk managers, human resources claims coordinators and anyone who is exposed to any of the hazards being presented in the workshop. A light breakfast and hearty lunch will be served. Online registration of each attendee will insure enough workbooks and food will be available. Register at [www.tcrmf.org](http://www.tcrmf.org). Please let us know you're coming. There is no charge for these workshops. *Thank you to all members who have agreed to host a workshop.*

## Risk Management Briefs

### Ebola

This extremely virulent disease is loose again in Africa. As of February 11, 2019 the outbreak had infected 759 people and killed 468 people in the Democratic Republic of the Congo (DRC). There have been no cases seen in the United States so far and the disease has not spread to bordering countries. The World Health Organization and Congolese medical responders have been effective in containing the disease within the DRC. An experimental vaccine has also been used to slow the spread. It has been given to 61,000 people in infected areas including front line medical staff and care givers. The vaccine appears to be very effective. Despite the best efforts of the World Health Organization and the Congolese medical teams' persistent war in eastern provinces curtails containment efforts and displaces people as refugees to adjacent provinces contributing to the spread of the disease. (*All Africa, February 11, 2019, Congo – Kinshasa Ebola Vaccine is Key to Ongoing Efforts to Contain the DRC Outbreak*)

### Hurricane Season Approaches

It is too early for Colorado State University's hurricane

prediction to include estimated numbers of storms but an early paper recently published forecasts a season much like 2018. One of the general measures they use to characterize the intensity of a hurricane season is Accumulated Cyclonic Energy (ACE) which is a measure of the overall power of all the storms during a season. The ACE scores for the period 2014 through 2018 were:

2014	67	2017	226
2015	60	2018	129
2016	155	2019	???

CSU's estimate for 2019 is 130 with a 25% probability and 80 with a 20% probability. Their first concrete prediction of number of storms and types will be published on April 4, 2019.

*(“Qualitative Discussion of Atlantic Basin Seasonal Hurricane Activity for 2019” Colorado State University Department of Meteorology)*

## OSHA Reported Workplace Fatalities in Texas in 2017

The Texas Department of Insurance, Division of Workers' Compensation published a pamphlet entitled “Fatal Occupational Injuries in Texas 2017” in December 2018. It contains a statistical recap of all federally reported occupational fatalities during 2017. Several tables and charts are presented illustrating the main causes of fatalities and “key findings.” The most common cause of fatal accidents during work is transportation incidents related to driving. The highest number of fatal work injuries was “transportation incidents with 234 incidents” or 44% of the U.S. total in 2017. There were 545 total fatalities in Texas in 2017 for private employers. The second highest total involved fatal falls, slip or trip with 93 reported. Of this total 81 were falls to a lower level with the most common fall between 11 and 15 feet. Although driving related claims are not a leading cause of injury to member employees, they did account for 25% of the total cost of



workers compensation claims over the last five complete years. The “Fall, Slip or Trip” category is the leading cause of injury at **38%**. Strain injuries totaled 19% and struck by or strike claims were 10% of the total. Total costs reported for Fund members during the 2014 – 2018 period were \$13,708,530. A complete analysis is sent to each member on a monthly basis. The pamphlet is available on the Texas Department of Insurance website at [www.tdi.texas.gov/wc/safety/sis/documents/2017fatalrpt.pdf](http://www.tdi.texas.gov/wc/safety/sis/documents/2017fatalrpt.pdf)

## 2018 – 2019 Flu Season

The Centers for Disease Control and Prevention has extended a warning that the current Flu season is far from over. Early in the season the H1N1 strain of flu was predominant the H3N3 variety has taken hold and is now the most common strain. The flu vaccine formulated for this season is effective against both strains. The CDC reports that since October 1, 2018 there have been 26.3 million cases of flu and 31,200 deaths including 64 children. The Fund recommends a flu vaccination if you haven't had one yet.

## New Fund Staff:

**Mike DuBose, CSP, CFPS, ARM; Loss Control Consultant.** Mike brings over 25 years' experience in property and casualty loss control. He has provided occupational safety and property protection services for many organizations across a variety of industries. Mike previously worked for the Texas State Office of Risk Management, providing risk management services for various state agencies. DuBose received a BS in Criminal Justice and a MS in Criminal Justice Management from Sam Houston State University. He is a Certified Safety Professional (CSP), Certified Fire Protection Specialist (CFPS) and Associate in Risk Management (ARM). Mike has served as a principal member on National Fire Protection Association's (NFPA's) Emergency Management and Business Continuity Technical Committee, which promulgates NFPA 1600, Standard on Continuity, Emergency and Crisis Management. He has also served as a Technical Advisory Group Member of the United States Delegation for ISO Technical Committee 223 – Societal Security, which develops international standards on security, emergency management and continuity of operations. Mike will be based in Bryan, Texas and can be reached at 979-599-4486 or [Michael.dubose@yorkrisk.com](mailto:Michael.dubose@yorkrisk.com).

**Andrew Yu** recently joined the Fund as a **Senior Customer Service Representative**. He handles the day-to-day Fund coverage and renewal questions, property/vehicle change requests, evidence of insurance requests as well as assisting with MVR's and flood zone determinations. In addition, he will be helping members with the placement of ancillary coverages, including employee dishonesty bonds, notary bonds, flood coverage, windstorm coverage in Tier 1 counties and cyber coverage. Andrew graduated from the University of Houston, majoring in Finance. He previously worked for companies such as GEICO and NORCAL Specialty Insurance Company in business development and underwriting. Once Andrew has completed is training, an introductory announcement will be sent to those Fund members he has been assigned to service.

