Working with Fire Departments and Relief Associations



Troy T Walsh – Loss Control Consultant / Public Safety



Troy T. Walsh, Loss Control Consultant





- 9 Years with The League of Minnesota Cities as a Loss Control Consultant
- 15 Years as a Public Works Department Employee
- 25 Years (active) as a Firefighter
- The Fire Service is more than a Job it's a Passion!

LMCIT Insurance

- Most cities have coverage through LMCIT
- A few large cities are self-insured
- Main types of coverage
 - Property/Casualty
 - Liability
 - Property damage
 - Automobile
 - Workers' Compensation



Topics Overview

- Relief Associations
- Human Resources
- Policies
- Selection vs Election
- Purchasing Process
- Budgeting
- Workers Compensation
- Relationships
- Documentation



INFORMATION MEMO Fire Department Management and Liability Issues

Outlines the structure of city volunteer or paid-on-call fire departments and their basic management challenges in personnel, finances, and facility safety. Discusses optional organization as a consolidated department, powers of volunteer fire relief association members contrasted with city fire department employees, the Insurance Services Office (ISO) fire protection rating system, and links to model documents for fire charges, management policies, and fire service contracts.

The League of Minnesota Cities Insurance Trust gratefully acknowledges the assistance of the Minnesota State Fire Department Association, the Minnesota State Fire Chiefs Association, and the Minnesota Professional Fire Fighters in the original development of materials for this memo.

RELEVANT LINKS: For a general discussion of fire services see the League's Handbook, *Public Safety and*

Emergency Management.

I. Fire services

Residents in communities throughout Minnesota benefit from the services provided by fire departments. Sometimes services are provided to residents directly by the city. City departments may be staffed with volunteers, fulltime paid firefighters, or a combination. Cities may also collaborate or contract with one another or another governmental entity (such as a township) for fire services. Each of these options presents a unique set of management and liability issues.

Special Considerations with Fire Departments

- Off-Site Workplace/Building
- Unusual Hours (Training/Mtg)
- Minimal City Hall Interactions
 including Elected Officials
- Social Club Not a Job?
- Relief Association/Fire
 Department Confusion
- We are Volunteers



Three (3) Types of Fire Departments

- City/Municipal Fire Department
- Joint Powers
 - Districts or JPA



ORET

 Independent Fire-Fighting Corporation • Career



- Paid-on-Call or Part-Time
- Volunteer
- There is also a Combination of Types (*Mixture of Career* and Paid-on-Call)

Why Does It Matter What Type of Fire Department We Have?

Who's The Boss







Fire Departments vs. Relief Associations

Fire Departments



Relief Associations



Fire Departments vs. Relief Associations

Fire Departments



Fire Chief

Relief Associations



Relief Association President

Thank You - Waconia, MN Fire Department

Relief Associations – Board of Trustees

• Minnesota State Statute 424A.04 - (Subdivision. 1. Membership)

- (a) A relief association that is directly associated with a <u>municipal fire department</u> must be managed by a board of trustees consisting of nine members. Six trustees must be elected from the membership of the relief association and <u>three trustees must be drawn</u> from the officials of the municipalities served by the fire department to which the relief association is directly associated. The bylaws of a relief association which provides a monthly benefit service pension may provide that one of the six trustees elected from the relief association membership may be a retired member receiving a monthly pension who is elected by the membership of the relief association. The three municipal trustees must be one elected municipal official and one elected or appointed municipal official who are designated as municipal representatives by the municipal governing board annually and the chief of the municipal fire department.
- (b) A relief association that is a subsidiary of an <u>independent nonprofit firefighting</u> <u>corporation</u> (Etc.)

Who Oversees What?

Who handles the FD Operating Budget?

Fire Dept. or Relief

• Who Handles Fundraisers?

Fire Dept. or Relief

- Who Deals with the Fire Scene?
 Fire Dept. or Relief
- Who Handles their own Checkbook?

Fire Dept. or Relief



Who Manages the What Funds?

Which City Department Can Have Its Own Checking Account?

A) Park Department

B) Fire Department

C) Public Works Department

D) Relief Association



Municipal Funds and Fire Departments



Relief Associations - Funds

Special Fund (Pension)





General Fund (Donations, Fundraisers) Gambling (Pull Tabs, Exc.)



Relief Associations and IRS Non-Profit Status

- Must Clarify Non-Profit status with IRS for 3 reasons:
 - 1. Status determines whether general fund and special (retirement) fund income is taxable or non-taxable
 - 2. Must have non-profit status for general fund fundraising
 - 3. Non-profit status determines insurability with LMCIT
- Contact LMC Research for help
 - 1-800-925-1122 or <u>Research2@lmc.org</u>
- Decide: Do we <u>want to</u> and are we <u>able to</u> administer our own retirement fund?
- Should we join a Statewide Volunteer Retirement Plan?

Relief Association Management: Pensions

- Shortfalls in pension and benefits accounts will be made up by City.
- Watch out for Relief Associations with "ambiguous IRS Tax status.
- Relief Associations maintain and operate pension fund
 - Relief Association may but is not required to maintain a "General Fund."

Statewide Volunteer Firefighter Retirement Plan (SVFRP) – (PERA Plan)

- <u>Advantages</u>
 - No annual reporting or audit requirements
 - Professionally managed by PERA
 - Money <u>not</u> comingled with PERA
 - State Board of Investments (6% assumed earnings vs current 5%)
 - \$30 per member per year administrative costs
 - Benefits are portable (move with firefighter)

Statewide Volunteer Firefighter Retirement Plan (SVFRP) – (PERA Plan)

<u>Disadvantages</u>

- May lose some control over benefit package design
- Lump Sum benefits only
- Pays for full year of service only
- Fund investment decisions made by others
- Easy to get in, but may be hard to get out

Statewide Volunteer Firefighter Retirement Plan (SVFRP) – (PERA Plan)

Considering Joining the Statewide Retirement Plan?

- City Council and Relief Association <u>must</u> agree and request cost analysis from PERA
- Questions about the Statewide Retirement Plan? Contact: Sharyn North
 - <u>Sharyn.north@mnpera.org / www.mnpera.org</u>
 - PERA Finance Dept. 1-800-652-9026
 - Lists of Current Participants and Amounts
 - <u>https://www.mnpera.org/plan-information/statewide-volunteer-firefighter-retirement-plan/departments-participating-in-the-statewide-plan/</u>

Bylaws vs. Policy Manuals



- Personnel Policy
 - All Employees
 - Including Firefighters
- Department Operations Policy
 - Specific to Department Operations
 - Various Titles
- Bylaws
 - Relief Association

Legal Duties of a Fire Chief

- Human Resources
- Retirement Funds
- Certifying Service Credits
- Fire Codes
- State Aid
- Fireworks
- Etc....

• Published:

- September-October 2022 Issue of the Minnesota Cities Magazine
- Fall 2022 Issue of the Minnesota Fire Chief Magazine



< Back to the Sep-Oct 2022 issue

Legal Duties of a City Fire Chief

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By Aisia Davis

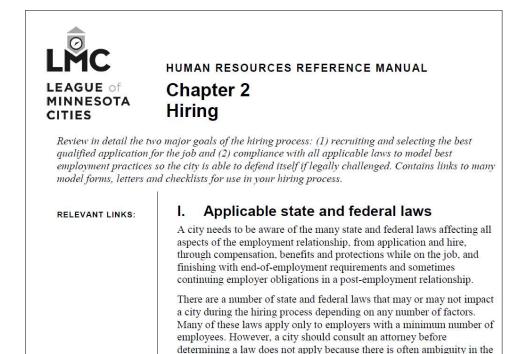
While there is not a specific state law that requires a city to have a fire chief, various state laws deal with the legal duties of a fire chief, including responsibilities related to fire department licensure, firefighter training and education, the uniform fire code, and retirement funds. Operating a fire department without an appointed fire chief would make fulfilling some vital operational duties unfeasible. Although staffing issues in fire departments are not new, cities are facing challenges attracting and retaining firefighters at all levels, let alone leadership roles like a fire chief with numerous statutory responsibilities.

Human resources and retirement fund duties

https://www.lmc.org/news-publications/magazine/sep-oct-2022/lotl-sep-2022/

Human Resources

- Hiring Process
- Equal Opportunity Employment
 Employment Laws
- American with Disabilities Act
- Discipline Procedures



considered employees in many circumstances.

definition of "employee." For example, volunteer firefighters are actually

Hiring Process

- Application
 - When was the last time they were updated?
 - LMCIT has a current Sample Application Template.
- Veterans Preference
 - Is that included in your Applications?
- Background Checks



Hiring Process – Background Checks

- Minnesota State Statute 299F.035 -Subd. 2.Plan for access to data.
- (a) <u>A background check must be</u> <u>conducted on all applicants for</u> <u>employment and may be conducted</u> <u>on current employees at a fire</u> <u>department.</u> The fire chief must conduct a Minnesota criminal history record check. For applicants for employment who have lived in Minnesota for less than five years, or on the request of the fire chief, a national criminal history record check must also be conducted.









Equal Opportunity Employment

- Hiring Interview Process
 - Don't Ask Illegal Question
 - What is your racial identity?
 - What is your religious affiliation?
 - Do you have any children?
 - Have you ever been arrested?
 - Do you own or rent your home?
 - Use a Standardized Hiring Process
 - Utilize Interview Checklists



ADA Compliance

- Reasonable Accommodations
- ADA Compliance
 - Buildings
 - Job Titles
 - Technology



Discipline Process

- Legal Liability
 - When was your process last reviewed?
 - Is it Legal or are your opening up for Liability?
- Avoiding Discrimination
- Have a Written Process in place
- Absolutely <u>NO</u> Voting on Discipline by Firefighters....



Policies – When were they last updated?

By-Laws vs Polices

- By-Laws are for the Relief Association
 - Fundraising
 - Retirement Funds
- Operations Polices (SOP/SOG)
 - Department Operations
 - Apparatus Response Outlines
 - Training Requirements
- Personal Polices
 - Typically, City Wide for all Employees
 - Social Media
 - Hiring Process



Policies – Alcohol Response

Make Sure you Have One!

- Consider Zero Tolerance
- Set Time/Amount of consumption (Ex. Two drinks in Four Hours)
- Enforce The Policy





Alcohol at the Fire Station

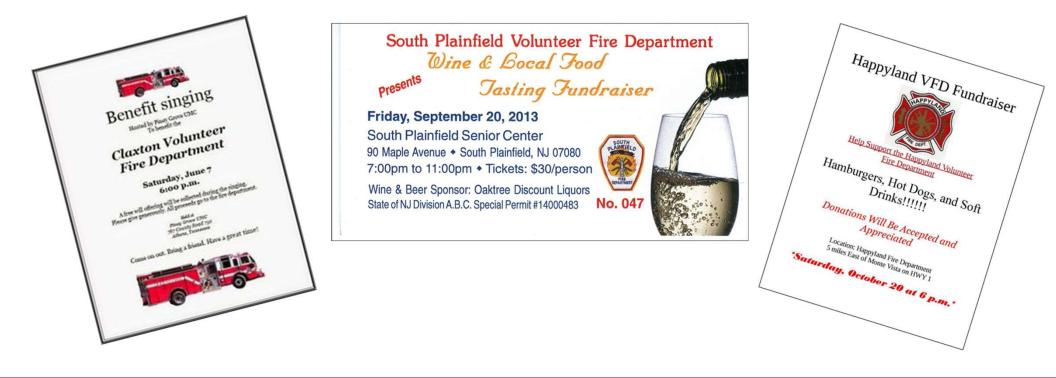
- Decide if it will be Permitted
- If Permitted, Take these Precautions.
 - <u>NO</u> Sale of Alcohol
 - <u>NO</u> Access by underage persons
 - Follow your Response Policy

Policies – Alcohol/Drug Testing

- Again, the City Should Have a Policy
- Any Questions consult League of MN Cities Human Resources Team
 - <u>HRBENEFITS@lmc.org</u>

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Mam: Star: j 153.3t and J. The start is a subject to	Medical Cannabis Act regulations. Discusses	, and about required testing under federal Department of Transportation what to do about use, possession, and impaired employee performance in the
Wins Star § 1933. whol 3 or models a city can use to take action on a process or project. Look for the toolkit icon so you can download that tool to use or modify it for your city. RELEVANT LINKE I. Suspicion of city employee drug use to take action is whether the city should lets the employee. The answer to such a question is whether the city should lets the employee. The answer to such a question depend on whether testing is legally permitted in that situation as well as consideration of other the city should lets the employee. The answer to such a question depend on whether testing is legally permitted in that situation as well as consideration of other to level. (JDAT WA) does not require drug and Alcohol testing in the Workplace Act (DAT WA) does not require drug and alcohol testing of employees in the workplace. A separate law, linked to the left, govern most gross vehicle weight of 26,001 or more pounds. Mine Star § 1933. whol 3 If a city suspects an employee is under the influence or impaired on the job, the city should work closely with its city atomety to determine how to respond and alcohol set left and provem dong and alcohol testing of the provem dong and alcohol testi		
If a city suspects an employee is under the influence or otherwise impaired on the job by alcohol, illegal drugs, prescription medications, and/or other substances (collective)? drugs or alcohol?), often the first question is whether the city should test the employee. The answer to such a question depends on whether testing is legally permitted in that situation as well as consideration of other factors. Minnesota and federal drug testing laws are discussed in detail below. Brieffy, if is important to know Minnesota's 1987 Drug and Alcohol Testing on the Workplace Act (DATWA) does not require drug and alcohol testing. Due for citles choosing to test, the law governs drug and alcohol testing of employees in the workplace. A separate law, linked to the left, governs most appeters of employees legally using medical canantis. In contrast, Federal 1994 Department of Transportation (DOT) Federal Highway Administration regulations require employee drug testing in certain circumstances, such as for commercial drivers who operate commercial motor vehicles having a gross vehicle weight of 2.001 or more pounds. If a city should work closely with its city attorney, the city should		or models a city can use to take action on a process or project. Look for the
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his material is provided as general information and is not a substitute for legal advice. Consult your attorney for advice concerning specific situations.	145 University Ave. West	www.imc.org 1/17/2020

Relief Note – Fundraisers & Alcohol



Election vs. Selection

- Legal Liability Concerns
 - Discrimination
 - Veterans Preferences
- Job Descriptions/Qualifications
 - Minimum Standards for Positions
- Have a Promotional Process
 - Plan for the Future



Purchasing Process

All Finances Controlled By City

 Accounts used to Pay for Operations

(Fuel, Maintenance, Training, Facilities, Etc.)

- Any Fees that come from Invoices of Service.
- City Tax ID Numbers
- Absolutely <u>NO CHECKBOOKS</u>

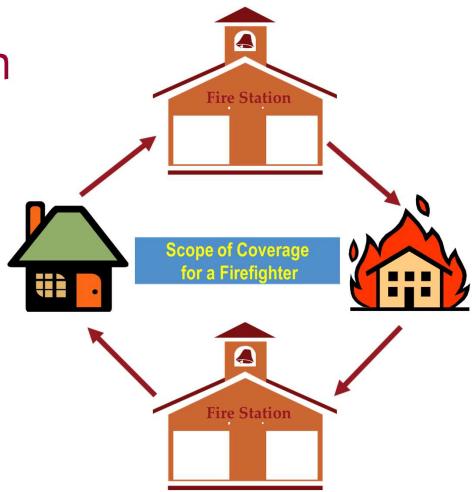


Budgeting

- Working with City Council and Administration on Annual Budgets
 - Operations
 - Personal Protective Equipment
 - Tools & Equipment
 - Training
- Developing a <u>Capitol Improvement Plan</u> for Large Purchases
 - Apparatus
 - SCBA's
 - Personal Protective Equipment
- Emergency Purchases or Events Needs
 - Work with City Administration

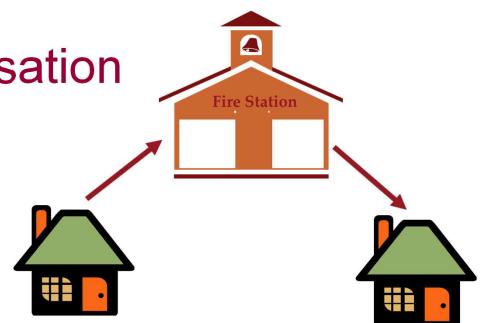
Workers Compensation

- When are you Covered
 - Emergencies
 - Non-Emergency Events
- Injury Trends
- Reporting Injuries
 - First-Report-of-Injury
 - Supervisors Report of Accident



No - Workers Compensation

- Firefighters are NOT covered when they are driving to and from the Fire Station for:
 - Meetings
 - Drills
 - Training
 - Inspections
- Fundraisers
- Parties
- Picnics
- Athletic Recreation



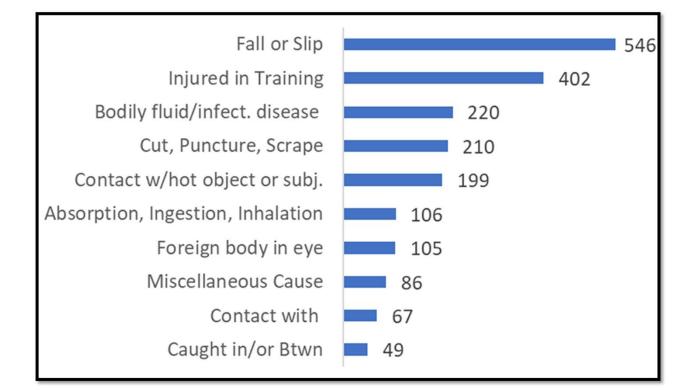
Injury Trends – Firefighter Work Comp Stats

Overall WC Stats

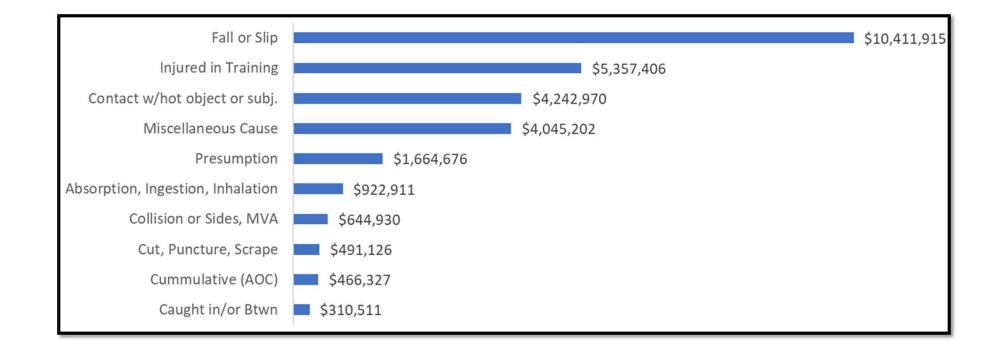
- Loss Years 2010-2019
- 3,219 Claims with Incurred Costs
- \$48,184,332 Net Incurred Costs
- All MN Data as of 12/31/2019



Top 10 Most Frequent Causes of Injury



Top 10 Most Frequent Costs of Injury



Injury Reporting

- Report ASAP Inform City Admin.
- Submit to LMCIT Claims

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17. Insured legal name and PEIN 53. CA a 88. Policy # (induding effective dates) or self-insured centificate # City	code 45. Date form completed				
18. Policy # (including effective dates) or self-insured certificate # City	G ADMIN COMPANY (CA) name (sheck one)				
and the second	State Zip Code				
9. Insurer FEIN 50. Date insurer received notice 53. CA F					
55. To be completed Claim type code: Type of loss code: Late reason or by the CA.	Salary paid in tieu of comp? Death result of injury?				

- Submit within 48Hrs
- Loss Time Injuries, OSHA must be notified within 14 days.

SUPERVISOR'S REPORT OF ACCIDENT (PLEASE READ AND FOLLOW INSTRUCTIONS ON BACK)								
This form should b causes so that corr	e completed by the super ective action can be taken	visor as soon after a work as and future accidents avoid	ccident as possible. ed. Every accident s	It is useful in gatherin hould be investigated	and the causes co	investigating	g accidents	and their
Name of Employee		City/City Orga	nization:		Dept			
Date of Accident:		Time of Accident:		Did employee lose ti	ime from work?	YES 🗌	NO	
Hours lost on day	of accident:		Has employ	e returned to work?	YES NO			
Employee's job tit	le:		Years of employ	ee's service with City	y/City organizatio	n		
Years employee hr	s been in present job:		Number of ho	urs employee works p	er week:			
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5.	DID HOREPLAY C/	USE THE INJURY?					YES T	NO D
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7.	SHOULD A GUARD	BE PROVIDED?					YES 🗖	NO
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Relationships

- Working together with Cities, and Townships
- Fire Dept City/Township Contracts
- Mutual-Aid Agreements
 - LMCIT Risk Management Attorney, Chris Smith



Relationships - Townships

- LMC and Township Association have developed a model agreement
- Method to establishing fire service charges
- Insurance -- City shall have insurance and name town as an "additional insured"
- Indemnification -- City shall defend and indemnify the town for any claims



Documentation

Charging for Fire Calls

- Must have an Ordinance
- LMC has sample ordinances
- Avoid Insurance Fraud
- Fees should be reasonable and proportional to service
 - Utilize a Fee Schedule!

Data Practices & Records Retention

- Data Requests
 - How do you give our information when its requested?
 - City Data Requests Policy
- Records Retention
 - Mn State Statute 138.17 Government Records
 - General Records Retention
 Schedule for MN Cities

SECTION	CODE	TITLE & DESCRIPTION	RETENTION PERIOD	CLASSIFICATION	STATUTE
FIRE	FIR 00010	AMBULANCE BILLING/HIPPA AUTHORIZATION FORM Patient signs acknowledging they are financially responsible for the provided services and that they have received a copy of the Notice of Privacy Practices.	10		
FIRE	FIR 00020	AMBULANCE EMERGENCY ROOM RECORDS Admission date, patient name and address, insurance, emergency contact, doctor, birthdate.	10	Private	
FIRE	FIR 00030	AMBULANCE MASTER SCHEDULES Monthly Calendar of call time - reviewed by EMSRB representative upon relicensing.	6	Public	
FIRE	FIR 00040	AMBULANCE PATIENT CARE REPORT - EMSRB/STATE FORM Includes mileage, patient name and address, type of injury, incident address, destination information, vital signs, and narrative.	10	Public/Private	
FIRE	FIR 00050	AMBULANCE PRE-HOSPITAL PROTOCOLS Includes variances for licensing.	Until superseded		
FIRE	FIR 00100	APPARATUS/EQUIPMENT MAINTENANCE & INSPECTION RECORDS:	Life of equipment	Public	
FIRE	FIR 00200	ARSON REPORTS/INVESTIGATIONS	Permanent	Public/Confidential	MS 13.82, Subd. 7, MS 13.83
FIRE	FIR 00350	FA-1 FORM, APPLICATION OF STATE AID FIRE EQUIPMENT CERTIFICATE	6	Public	
FIRE	FIR 00400	FIRE CODE	Permanent	Public	
FIRE	FIR 00600	FIRE INVESTIGATION REPORT Used by investigators to document facts found regarding fires investigated by the FPB.	6 unless arson, death, or hazardous materials then retain permanently	Public/Confidential until investigation is closed.	MS 13.82, MS 13.83
FIRE	FIR 00700	FIRE PREVENTION WEEK TOURS & DEMONSTRATION DATA	1	Public	
FIRE	FIR 01150	FIRE TRUCK DAILY/WEEKLY INSPECTION SHEETS	2	Public	

Fire Department & EMS Data

- Ambulance & EMS Run Reports require a HIPPA compliant release...
- Fire Department Data and Images are Government Data
- Ownership of the device is not the same thing as ownership of the data
- Model Digital Images / Social Medial Policy for Fire Departments / EMS

PTSD and Mental Health Toolkit

PDF

PTSD and Mental Health Toolkit

Home > PTSD and Mental Health Toolkit Home

Excellence in public safety requires a workforce with good mental health practices and departments that support mental health as a priority.

The League of Minnesota Cities Insurance Trust has developed <u>this toolkit</u> to help our members address issues of public safety mental health and posttraumatic stress disorder (PTSD). Due to the nature of your job duties, public safety personnel may be at increased risk of developing PTSD. PTSD and other mental health conditions are treatable, and in many cases, preventable.

Lora Setter, a former law enforcement officer, is available to help answer your questions regarding public safety mental health programs, current trends, and legislative efforts. *Lora can be reached at <u>isetter@lmc.org</u> or (612) 248-9551.*

Get public safety mental health hotline numbers here



- LMCIT has developed a PTSD and Mental Health Toolkit
- Public Safety Program Coordinator
 - Lora Setter 651-248-9551 or <u>lsetter@lmc.org</u>

LMCIT – Here to Help Limit Liability!

- Human Resources
- Policies
- Selection vs Election
- Purchasing Process
- Budgeting
- Workers Compensation
- Relationships
- Documentation

Public Safety / Risk Management Blog:

<u>www.Imcontheline.blogspot.com</u>



LMCIT – Here to Help Limit Liability!

Public Safety Project Coordinator

Tracy Stille – 651-215-4051 or <u>tstille@lmc.org</u>

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LMC Human Resources – <u>HRBENEFITS@Imc.org</u>

LMC Research – <u>Research2@lmc.org</u>



Questions?





Fire Department Management and Liability Issues

Outlines the structure of city volunteer or paid-on-call fire departments and their basic management challenges in personnel, finances, and facility safety. Discusses optional organization as a consolidated department, powers of volunteer fire relief association members contrasted with city fire department employees, the Insurance Services Office (ISO) fire protection rating system, and links to model documents for fire charges, management policies, and fire service contracts.

The League of Minnesota Cities Insurance Trust gratefully acknowledges the assistance of the Minnesota State Fire Department Association, the Minnesota State Fire Chiefs Association, and the Minnesota Professional Fire Fighters in the original development of materials for this memo.

RELEVANT LINKS: For a general discussion of fire services see the League's Handbook, Public Safety and Emergency Management.

I. Fire services

Residents in communities throughout Minnesota benefit from the services provided by fire departments. Sometimes services are provided to residents directly by the city. City departments may be staffed with volunteers, fulltime paid firefighters, or a combination. Cities may also collaborate or contract with one another or another governmental entity (such as a township) for fire services. Each of these options presents a unique set of management and liability issues.