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By Lisa Knapton

All police agencies, large and small, must be able to respond to the law enforcement needs of their communities. Tightening of budgets is pushing many local governments to pool their resources. It can be beneficial for individual law enforcement agencies to form regional policing operations to conduct ongoing training and partner for other specialized multi-jurisdictional teams including, but not limited to, Special Weapons and Tactics (SWAT), drug and gang task forces and investigation teams. Generally, each jurisdiction contributes officers, supervisory staff and equipment, delegating supervisory and administrative authority within the team by use of an agreement.

The agreement should be in writing and should follow the requirements of [RCW 10.93](#) of the Mutual Aid Peace Officers Act and [RCW 39.34](#), the Interlocal Agreements Act. WCIA recommends the use of an interlocal agreement versus a Memorandum of Understanding, also referred to as “Chiefs Agreements”, which is not legally binding and enforceable. Use of an interlocal agreement requires the legislative body to approve the agreement and authorize the Chief Administrative Officer (the Mayor or City Manager) to sign the contract.

WCIA recommends that prior to drafting the agreement, the parties meet to determine how liability will be handled in the event that a claim or lawsuit is triggered by team activity since the nature of the operations conducted by these teams carries a higher than normal risk for liability. There is a potential for allegations of liability surrounding such things as a team entering the wrong building, being involved in shootings, or acting on incorrect information leading to bodily injury or property damage. Having an established agreement will provide a more seamless process for handling the claim or lawsuit.

The parties to the agreement may be WCIA members or non-members and may have unequal coverage terms, self-insurance retentions (SIRs), deductibles and varying degrees of responsiveness by insurance carriers. Knowing coverage issues in advance will play a role in determining how the team will decide to handle the apportionment of liability should a claim or lawsuit be received.

In general, there are three alternative methods for addressing liability in multi-jurisdictional law enforcement interlocal agreements which are:

- A. Equal sharing of liability by all teams who had members present at the operation that triggered the claim or the lawsuit. WCIA recommends the use of this method of apportionment of liability as it provides for a unified defense in civil litigation and enhances individual officer protection. This method requires the involved agencies to agree in advance how each claim or lawsuit would be handled. Once determined, claims handling procedures should be clarified in the interlocal agreement.

- B. Each agency handling their own liability. This method has the potential to lead to finger pointing and weaken the ability of the parties to present a strong and unified defense, however, this type of indemnification language is frequently seen in canine agreements.
- C. Imposing all liability on the agency that requested the services. The drawback to this method of handling liability is that it may discourage agencies from requesting assistance when they need it for fear of potential liability being imposed by such an operation.

Indemnification language templates for all three methods of liability apportionment in police interlocal agreements can be found under POL. 23, Interlocal Agreements Liability Apportionment Concepts, in our Liability Resources Manual. The Liability Resource Manual is available through the Member Resources page on the WCIA website: <http://www.wciapool.org/member-resources>. As with any agreement, the member's attorney should always review the interlocal prior to it being signed. Your WCIA Risk Management Representative is also available to review the agreement from an insurance and risk management perspective.