

# InTrust

The Newsletter for Risk Management Trust Members

November 2009

## RISK MANAGEMENT TRUSTEES

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**John Wilburn**  
Trust Administrator



**Keith Brewer**

### **OPPORTUNITY** by Keith Brewer, Executive Director, TOSS

The late Milton Berle stated, "If opportunity doesn't knock, build a door."

John Evans and John Wilburn

have built that door for school directors across the state of Tennessee. By forming a partnership with the Tennessee Organization of School Superintendents (TOSS), the Tennessee Risk Management Trust (Trust) and Next Generation Underwriters (NGU) have provided excellent insurance, affordable prices, and professional development for school districts.

The spirit of cooperation between TOSS, the Trust, and NGU has solidified the integrity of our working relationship to transform their sponsorship of our organization into a true partnership. The focus of our partnership is, not only to validate the two companies for providing you with business opportunities, but also to assure you that John Wilburn and John Evans desire a true partnership with school districts. Their partnership with you allows an active participation in controlling losses through free professional development and sharing in dividends to lower your annual premiums. Therefore, one should not mistake the Trust and NGU as vendors, but rather as partners.

The door of opportunity has now been opened again. This time the opportunity

comes in the form of professional development. Fifty directors will have the opportunity to receive one day of CEO credit addressing sexual misconduct in the school district, school, and classroom. The professional development opportunity will be offered in Nashville at the Marriott Hotel on January 27, 2010. Travel and lodging reimbursement will be provided for each participant. The Trust and NGU will provide lunch and breaks.

It is my request that you consider and plan to attend this excellent day of CEO training. The day of information will provide preventative procedures to implement to prevent or to minimize sexual misconduct. The Trust will have one of their defense attorneys that will provide you an overview on the topic of sexual misconduct, the process for implementing investigative procedures, and gathering evidence to exonerate or to determine guilt.

A splendid opportunity has been given to each director in the area of school law. All partners benefit from the director's attendance. Thus, I look forward to greeting you on January 27th. **T**

### **POLICE OFFICER SAFETY: METH USERS**

by Chris Stites, Safety Engineering Consultants

As dangerous as the meth lab operation is, for most police officers the danger from meth comes from dealing with the methamphetamine user. Meth users are responsible for violence toward themselves, family members, friends, strangers, and each other. Headlines such as these are unfortunately, a by-product of meth use.

The abuse of methamphetamines is in stages, with the user being most dangerous when they are tweaking. Tweakers probably have not slept in 3-15 days and are irritable and paranoid.

Below are the stages:

- **RUSH (5-30 MINUTES)**
- **HIGH (4-16 Hours)**
- **BINGE (3-15 Days)**
- **TWEAKING**
- **CRASH (1-3 Days)**
- **NORMAL (2-14 DAYS)**
- **WITHDRAWAL (30-90 Days)**

During the “tweaking” phase, the behavior is very unpredictable, and the effects of tweaking are intensified by other depressants, such as alcohol. The tweaker may appear normal at first glance. Their eyes are clear and their speech is concise. However, their eyes are moving at about 10 times faster than normal. There may be a quiver to their voice. Often the movements will be jerky. They may be saying weird, delusional, or paranoid things.

If you, a police officer, encounter someone you believe is tweaking, here are a few tips that can help keep you safe:

- Get backup in route. If violence erupts, you want your backup officers already on-scene or already in route.
- Maintain a reactionary gap. A seven to ten foot gap is a good minimum. This allows you slightly more time to react if the tweaker becomes violent. Almost as important, this does not “crowd” the tweaker. Keep in mind that he is paranoid, and by standing close to him, he feels crowded and his feelings of paranoia are intensified.
- Slow your rate of speech and lower the pitch of your voice.
- Slow your movements. Try to avoid any sudden moving.
- Avoid shining lights in his face. Bright lights can be very frightening to a tweaker. Bright lights can cause a tweaker to spontaneously fight or run.

- Keep the tweaker talking. If he is talking, he is not listening to the paranoid voices in his head. A silent tweaker often means his paranoia has encroached into reality. You are now part of his paranoid delusions, which could mean violence against you is imminent.

Stay safe! **1**

## **BONDING FOR PUBLIC OFFICIALS**

by John Wilburn, Trust Administrator

In the newsletter distributed in April 2009, the Trust was pleased to announce “BONDING FOR PUBLIC OFFICIALS”. This new product was being offered for the first time, and at no additional cost to the member by the TRUST to assist its members in satisfying the requirements of T.C.A. 8-19-01. The Trusts’ attorney had thoroughly researched the matter and opined that the Trust did have the requisite authority to satisfy the bonding requirement for all public officials. Following his opinion, we advised the Comptroller of the Treasury that we were proceeding with issuance of bonds, and heard nothing further, and did proceed.

Shortly after the first bonds were issued, the Trust received notification from the Department of Insurance that they felt we; the TNRMT, were not authorized to issue bonds for public officials. We are going to pursue the matter further inasmuch as our research confirmed that we do have proper authority, and if successful, we will again offer bonding and this will represent a significant savings for you. **1**

## **TNRMT MEMBERSHIP NOT BASHFUL ABOUT RENEWAL**

by John Evans, Next Generation Underwriters

Another July renewal is now behind us. This is the 22nd renewal of the Tennessee Risk Management Trust since its beginnings in 1987. Every renewal has seen its share of challenges as well as growth. This year is no exception although

TNRMT experienced only moderate sales efforts from the for-profit insurance companies and other pools.

“We are extremely pleased with the consensus opinion of our members that TNRMT is truly a good value”, said John Evans, Program manager. “The financial crisis as well as turmoil in the insurance industry has pointed up the value of strength in numbers and the wisdom of participating in a program in which the members are the owners of the program”.

This was obviously borne out as the TNRMT Trustees declared a dividend of \$2 million for the third consecutive year and by the success of increasing membership in both the school and other governmental entities portions of TNRMT.

We are pleased to welcome Lauderdale County Schools as our 101st school member as well as Lauderdale County Government, 24th Judicial District Drug Task Force, Crockett Public Utilities, City of Decherd, McMinnville Electric, Big Creek Utility District, Crockett Mills Utility, Double Springs Utility District, Lauderdale County Highway, Tellico Area Services Systems, Tullahoma Utilities Board, McMinnville Electric, Crockett Public Utilities, North Utility District of Rhea County and South Blount Utility District making a total of 66 non-educational governmental entity members.

With the growth experienced by TNRMT and the excellent financial strength of the program, TNRMT is well poised to be the long term solution for schools and governmental entities in Tennessee for the foreseeable future. **T**

## **KENTUCKY COACH VS KENTUCKY PRINCIPAL**

**by Harrold Henderson**

In a previous issue of InTrust, we advised that TSSAA Board of Control passed a proposal that required a heat policy for all its member schools. The heat policy prohibits schools from practicing when the heat index at the location of activity was

in excess of 104 degrees Fahrenheit. Other states high school athletic governing boards may quickly implement a similar policy as that of the TSSAA, especially with the recent highly profiled criminal case of a former Kentucky high school football coach charged in the death of a player, who collapsed at a football practice.

Many of you will recall the former Kentucky high school football coach was the first coach charged in the death of a player. Several experts testified that the player suffered from exertional heat stroke, which led to his death. The case which ended earlier this month with the former coach found not guilty was closely watched by those involved in youth athletics across the country. Defense medical experts were able to show the jury a combination of heat, the use of the dietary supplement Creatine and medication for an underlying health condition as well as the player being ill before practice were the primary factors that contributed to the player's death, which the court ruled as accidental.

Get to know your players and know what medication they are on and when they are to take them. Monitor the practice and allow periods of rest when the player asks for a break. **T**

## **PROPERTY COVERAGE ENHANCED FOR 2009 RENEWAL** **by John Evans, Next Generation Underwriters**

Most, if not all, of you are aware that TNRMT has been performing a property appraisal program for the past three years. The purpose of this appraisal is to promote equity among members with assuring proper insured values while encouraging a level of comfort that member's buildings were adequately covered.

TNRMT currently covers over \$8 billion in member's buildings and contents. It is obviously important that there is enough coverage to rebuild or repair damage after a major loss. TNRMT has accomplished this in the past by providing up to 125% of the scheduled value on each

building to be sure limits are sufficient. This is not the best solution but was liberal in coverage and worked well in almost all losses. The best way to assure equity and sufficient coverage is to provide BLANKET LIMITS. It was not possible to do this until appraisals were completed. Underwriters will provide the best coverage at the best price when they have confidence that covered buildings are properly valued. Our excess property underwriters now have this confidence level as a result of the appraisal program.

Coverage for your buildings is now based on blanket limits. This means that the value of all buildings owned by each member will be totaled and that amount will be the available limit in the event of a loss. For example, if you are a county government and you have a courthouse valued at \$2,000,000, a fire hall valued at \$500,000 and a health department building valued at \$1,000,000, there would be a total limit available for coverage for a loss to any individual building in the amount of \$3,500,000.

TNRMT will continue to look for ways to provide the best coverage to its members at the lowest possible cost while providing the most responsive service available. **T**

## CELL PHONES AND TEXT MESSAGING

by John Wilburn, Trust Administrator

Is this a problem in your school? If the response is yes, perhaps you question what you can do to stop it. The Attorney General says you can legally confiscate a student's cell phone, even one actually belonging to the parent.

Pursuant to the Student and Employee Safe Environment Act of 1996, local education agencies are "responsible for formulating a code of acceptable behavior and discipline to apply to students." Thus, you can adopt a policy regarding possession and use of cell phones on school property as well as disciplinary actions taken for violation of the policy. Such

actions can include suspension as well as temporarily seizing the device, but seizing the device does not imply consent to examine the call log, photographs or text message.

Examination of the device would require parental consent, or in the case of texting, consent of one of the parties to the text message in order to avoid the allegation of invasion of privacy. If consent is not given, we would recommend the SIMM card be removed and given to the parent until the end of the disciplinary period.

Most importantly in this or any other disciplinary process, be sure that you have fully investigated the matter and given the accused a chance to explain and that the entire process has been thoroughly documented. **T**

## LEGAL CORNER

### GUNS ALLOWED IN PUBLIC PARKS – EXCEPT WHEN CHILDREN ARE PRESENT

Last year, the Tennessee General Assembly debated whether people who have permits should be allowed to carry handguns in public parks. In May 2009, the General Assembly passed a law allowing handguns in public parks. That law went into effect on September 1, 2009. If you have a carry permit, you can carry a handgun in a public park in Tennessee. However, as the old saying goes, "every rule has an exception."

First, the new law allows a city or county to ban guns in parks that it owns or operates. *Tenn. Code Ann. § 39-17-1311(d)*. To do this, the city or county legislative body must simply pass a resolution banning handguns and post a sign at the park's entrance.

Second, the law applies only to parks "owned or operated" by a city or county. If a private organization, such as the Beech Community Association, owns the park, then the law still bans handguns even though the park is privately owned, but yet is publicly used.

Third, the law did not repeal Tennessee Code Annotated section 39-17-1309. That law bans handguns in any public park or

recreational facility during the time when the park or facility is being used for a school activity. This ban applies even if a sign has not been erected – the presence of the students for a “school” activity is enough. Thus, if a school baseball team is practicing on a baseball field in a public park – no guns are allowed.

These exceptions create questions. Those questions include:

- Can a school conduct activities in a park or play games in a park where guns are allowed? The answer is yes. The law bans guns in that park.
- If the park is 100 acres, does the ban apply to the entire park? The answer is yes.
- If I do not know that students are present for a school activity, am I allowed to carry my gun? The answer is no.

The moral of the story is that you may have a carry permit, but you may not be allowed to carry in a public park.

The Tennessee Attorney General has even issued an opinion on this question – Opinion No. 09-129.

**(Contributed by Mr. Keith Dennen of the law firm of Bone, McAllester, Norton that has served as the Trust attorney since 2004). **