



The proliferation of smartphones and social media has fundamentally changed the way we interact, work, record events, and share information. We can now stay connected almost anywhere; while this is generally a positive development in communication, it can also potentially affect a parks and recreation department's ability to control risk-management. For this reason, it's important for risk managers in the industry to understand and address the issues associated with this technology.

Direct Risks

Accidents happen for a variety of reasons, including failure to pay attention. Undeniably, smartphones can be a distraction. Many recreational activities require a participant's undivided attention or the use of both hands. Other activities entail sudden movements where items can fly out of participants' pockets. When operating these types of activities, having expressed instructions and warnings precluding participants from using or carrying phones can help reduce potential liability exposure. Where an accident is caused by someone's use of a smartphone—in violation of expressed instructions or warnings—it should be documented and preferably acknowledged in writing by the person using it.

Documenting The Scene

In litigation, the old saying holds true: "A picture is worth a thousand words." For years, facility owners have used cameras to document accident scenes, and in several states, these photographs are protected as work product. Smartphones have leveled the playing field.

Smartphones come equipped with still cameras, video cameras, audio-recording devices, and note pads. There are now applications (apps) specifically designed to assist accident victims in documenting accident scenes and injuries for future litigation. These technological advancements can create powerful evidence for a claimant—such as pictures of broken playground equipment or an athletic field in poor condition.

Some personal-injury attorneys even provide instructions about how to effectively document an accident scene using smartphones to achieve a favorable settlement or judgment. Many personal-injury attorneys hire investigators to visit accident sites and document allegedly dangerous conditions. Since smartphones are so common and inconspicuous, it can be difficult to identify these investigators when they come on the property to gather evidence.

If the accident victim documents the scene better than a premises owner or operator, it can cause major problems

Any sensitive situation has the potential of becoming the next internet video to “go viral.”

when litigation ensues. Therefore, guidelines should be developed to ensure that an accident scene is accurately and thoroughly documented. Accident investigation guidelines should include:

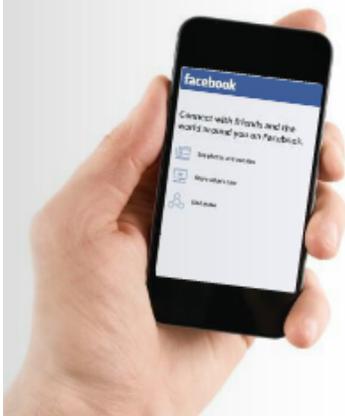
- Providing detailed instructions about how to complete incident-report forms
- Documenting observations; taking statements from the injured person, witnesses, and employees
- Photographing and/or videotaping the scene
- Collecting and preserving evidence, such as an allegedly defective product or surveillance video.

When an accident occurs during an event that spectators are videotaping, an attempt should be made to obtain a copy of the videos. If videos cannot be obtained, try to identify who was videotaping; it might be possible to obtain during litigation. Also, make note if an allegedly injured person seems too anxious about documenting an accident scene. For example, is the injured person, who is claiming an injured back, walking around and bending down to take photographs of a condition, without any sign of injury?

Reputation Risks

With the touch of a screen, that same recorded content can be instantly uploaded from a smartphone to the internet to be viewed by an audience of hundreds, thousands, or even millions. Any sensitive situation has the potential of becoming the next internet video to “go viral.” Also, news outlets are increasingly using amateur photographs and videos to assist with their coverage. Bystanders are becoming field reporters, and accidents are popular subjects of the news media. If a videotaped accident is caused by a hazardous condition or an operator error, it can create significant reputation problems as well as liability exposure. Video depicting an inappropriate response to an incident can be as compelling as the incident itself.

Parks and recreation industry risk managers should always be alert to the possibility that someone might be recording and that any misconduct could be used against them. Parks should be vigilant about maintaining their premises to avoid injuries, liability, and negative publicity. Public relations and customer-service training should be provided to every employee and volunteer at your park. All adverse situations should be handled swiftly



and professionally to avoid unnecessary damage to your reputation.

Marketing through social media also has attendant risks. Anyone who has a bad experience at your park has the potential to make disparaging statements. Since most social-network sites allow third parties to post communications, your own site can become a source of negative publicity. To reduce this risk, many businesses actively monitor and respond to negative comments to address the concern, typically without acknowledging wrongdoing.

Privacy And Security Issues

Along with the benefit of “staying connected” comes the associated concern of protecting information. Since social networks are relatively new, privacy laws in this area are still developing. Some courts have found the expectation of privacy is limited, if it exists at all, for information posted on social networks. Photographs and information posted on the public portion of a social-network website potentially can be used as evidence, and often plaintiffs’ web pages provide valuable information about their activities, friendships, and physical abilities. There are ethical prohibitions against “friending” claimants under false pretenses in order to gain access to private information. Nevertheless, on occasion, courts have ordered plaintiffs to produce social-network information protected by privacy settings.

Access to such information can be a double-edged sword. Plaintiffs’ attorneys frequently search defendants’ websites and social-media sites to try to identify information that will be helpful to their case. Therefore, no sensitive information should be posted to a public website or social network. Posting confidential or privileged information can destroy the protection. Employee policies and procedures should address these issues and should be enforced.

Monitor Future Developments

As people become more reliant on smartphones and social media for both business and recreation, new issues will emerge. Risk managers should respond appropriately to any direct risks involving the use of smartphones. They also must stay abreast of technological advancements, security concerns, and privacy laws in these areas. While there are risks inherent in the spread of this new technology, an informed park owner or risk manager can make it work for them. **PRB**

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