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ABSTRACT

South Africa's re-admission into international sport has contributed to the increase in the number of participants in sport in the country. Government also aims to promote and deliver programmes to develop sport at all levels of participation. The bodies responsible for these programmes are also responsible for policy development in sport on national and local level but not for the development of policies in sport at secondary school level. It is the responsibility of the Department of Education and related bodies for sport at school level such as USSASA. Sport participation at secondary school level could lead to potential injuries or permanent disabilities. The South African Constitution (Act 108 of 1996) does not focus on the management of sport or risks within school sport as it does not deal with specific issues or social activities but only provides a broad framework regulating all social activities including sport. Safety in school sport becomes part of risk management and not enough emphasis is placed on minimising the risks of injuries and law suits against the management of schools or sport managers, coaches or administrators. The problem is thus to identify and assess current practices that are related to the management of school sport in order to recommend guidelines for policy, procedures and practices for risk management in sport at secondary schools in Gauteng. Out of a population of 450 secondary schools, a sample of n=170 schools were drawn. Only 37 questionnaires were returned, but the results obtained still provided meaningful insights with regard to the management of risks in sport. In evaluating current risks management practises through descriptive statistical methods the conclusion could be reached that in general sport managers are aware of the legal responsibility towards participants in sport and that there is a perceived need to enhance certain legal liability aspects at secondary schools.

Key words:

Sport participation, injuries, risk management, legal liability, sport law.

OPSOMMING

Suid-Afrika se hertoelating tot die internasionale sport arena het bygedra tot die verhoogde deelname in sport. Die regering speel ook 'n rol en het ten doel om sport te bemark en programme aan te bied ten einde sport op alle vlakke te ontwikkel. Die liggame verantwoordelik vir die programme is ook verantwoordelik om 'n beleid te ontwikkel vir sport op nasionale en plaaslike vlak maar nie op sekondêre skoolvlak nie. Beleidontwikkeling vir skole is die verantwoordelikheid van die Departement van Onderwys en die betrokke liggame vir sport op skoolvlak soos USSASA. Die Suid-Afrikaanse Grondwet (Wet 108 van 1996) fokus nie op die bestuur van sport of risiko's binne skole nie omrede dit nie spesifieke sake of sosiale aktiwiteite aanraak nie, maar verskaf slegs 'n breë raamwerk wat sosiale aktiwiteite reguleer wat dan sport insluit. Veiligheid binne skole sport maak deel uit van risiko bestuur en daar word nie genoeg gedoen om die risiko van beserings en regseise teen die skoolbestuur of sportbestuurders te verminder nie. Die probleem is dus om die huidige sportbestuur praktyke te identifiseer en te assesser om voorstellings te maak vir riglyne aangaande beleide, prosedures en praktyke vir die bestuur van risiko's binne sekondêre skole in Gauteng. 'n Saampel van n=170 skole vanuit 'n populasie van 450 sekondêre skole was getrek, en slegs 37 vraelyste was terug ontvang van die skole. Hoewel die terugvoer nie voldoende was nie, was die inligting verskaf meningsvol en het insig gebied aangaande die bestuur van risiko's in sport. In die evaluering van huidige risiko bestuur praktyke, deur gebruik te maak van beskrywende statistiese metodes, kan die konklusie gemaak word dat sportbestuurders oor die algemeen, bewus is van hulle geregtelike verantwoordelikhede teenoor deelnemers in sport en dat daar 'n behoefte is om sekere geregtelike aspekte te bevorder by sekondêre skole.

Slutel woorde:

Sport deelname, beserings, risiko bestuur, regs aanspreeklikheid, sportreg.

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CHAPTER 1

THE PROBLEM AND ITS SETTINGS

1.1 INTRODUCTION

Western ideology has been dominating the African education system. The Western education system is not always the solution for the African way of life, as in Africa holism is a lived experience with its vast cultural diversity. This holistic way of life has had a major impact on the indigenous sporting culture. Physical education (PE) and sports in Africa are faced with many problems regarding qualified teachers, facilities, equipment and curriculum development with the greatest problem being to implement a policy addressing specific economic, political and social circumstances within a specific African country (Van Deventer, 2002).

Sport continues to grow and expand internationally as a global phenomenon as part of the social structure of countries world wide (Basson & Loubser, 2000; Singh, 2002). Today more people actively participate in sport in all its various forms, recreational or competitive, than ever before. The same applies to South Africa as South Africans have been described as a 'sports-mad' nation in which sport is regarded as a religion (Basson & Loubser, 2000). In South Africa, sport increased as a gross domestic product from 1,9% in 1997 to 2% in 1999 with an estimated worth of R15913 million (Government Communication and Information system, 2001). Sport has also been recognised as an important component for the overall development and upliftment of politically disadvantaged communities under the new dispensation of the country. This led to the Australia-South Africa Development Programme, in 1995, between the Australian Sports Commission and at that time the National Sports Council of South Africa, now known as the South African Sport Commission. The programme was channelled through the sports federations (elite sport) and the education system allowing children the opportunity to participate in sports and physical activities at schools (Van Deventer, 2002). There are also other factors contributing to the increased participation in sport in South Africa. These factors could be: South Africa's re-admission into international sport with the 1992 Olympic Games, increased coverage of youth sport and sport in general in the media and particularly on television as well as the transition in the

educational structure of the country (Gouws, 1997; Van Heerden, 1996). This increase in participation has potential benefits for the participant but could, however, be impeded by the inherent risk of potential injury (Van Heerden, 1996). Sport not only became an internationalised and lucrative big business, but could also result in legal consequences (Labuschagne, 1998). Learners and their parents/ guardians are also becoming more aware of their rights in relation to their education that has probably resulted from the factors causing increased participation in sport nationally (Singh, 2002). As in any other part of society sport should also be subject to the general law of the country (Basson & Loubser, 2000). South Africa's teaching profession should take note of their legal duties to learners under their supervision as well as the risks educators are exposed to if they do not meet these legal duties (Singh, 2002).

In order for the teaching profession to realise their legal duties to learners and the risks educators are exposed to, educators should have a clear understanding as to what constitutes a safe school. According to Roper (2000) a safe school is a 'holistic program developed within the school by school management, teachers, learners and school community – which together provides for the safety and security of learners and educators in order to build a learning environment free from violence, intimidation, fear and shaming.' This in return could promote the emotional and cognitive development of learners. Roper (2000) further stated that a 'safer school' programme and policy for the development of an effective and efficient safe school, would need to include environmental change strategies such as setting norms and procedures, as well as individual strategies such as providing sport, recreational and enrichment activities. These 'safer school' programmes and policies should include policies on firearms, drugs and alcohol use on school property, the school disciplinary code and strategies dealing with misconduct for learners and teachers, to be applied to sport in schools and brought in line with the government's policies and legislation on sport.

In South Africa the Parliament and Portfolio Committee on Sport and Recreation is principally responsible for defining government policy, legislation and budget allocation in the interest of sport. Two of the national bodies responsible for the delivery of sport under the direct supervision of the Minister, are the South African Sport Commission (SASC) and the Sport and Recreation South Africa (SRSA). The SASC is responsible for the delivery of sport development programmes and insuring that they are delivered by the national federations,

improving the quality of life of all citizens through the promotion of sport and recreation for increased participation. SRSA is responsible for the Government's role in sport and recreation. This includes the management of the vote for sport and recreation, inter- and intra-governmental relations including relationships with other government departments such as the Department of Education, interpretation of government policy for sport and recreation and the transfer of payments and legislation (Government Communication and information system, 2001).

These bodies are, however, not responsible for policy development for sport in schools. Policy development for the education sector has been the responsibility of the Department of Education (DOE) under the supervision of the Minister, whilst the implementation thereof is the responsibility of the schools (Heany, 2001). The Minister of Education, Ms. Naledi Pandor heads the DOE that forms the national body for education where policies are formulated. The DOE further functions within the respective provinces that are divided into district offices where sections exist for school sport. Information needs to be distributed to the schools from the district offices (Department of Education, 2003). The current legislation regulating education are the National Education Policy Act (Act 27 of 1996) and the South African Schools Act (Act 84 of 1996). Such educational developments as well as sport in school policies have largely been driven by Government policies. Another body responsible for school sport is USSASA (United School Sport Association of South Africa) that enjoys the recognition of the Ministry of Sport and Recreation and the Ministry of Education in the National Assembly and the relevant MEC's in the nine Provincial Legislatures and is recognised as the only school sports body in South Africa. USSASA is affiliated to the SASC and NOCSA (National Olympic Committee of South Africa). The reasons why USSASA was established are to:

- Ensure that all school sport in South Africa falls under one umbrella
- Ensure that proper contact is kept with the majority of schools in the rural areas and townships in South Africa
- Emphasise the economic viability of organising sport from school to national level on a multi-coded basis
- Ensure that one school sport body liaises with the Government, the SASC and NOCSA
- Facilitate disbursement of funds from Government sponsors and international donors to the individual sporting disciplines

- To receive acceptability from the International School Sport federation (ISF) and other bodies with similar aims and objectives.

USSASA is the national body for school sport serving as the host to provide opportunities for all schools and their learners to participate in sport by promoting competitive and recreational sport through mass participation and the striving for excellence in achievement in order to work towards the realisation of a democratic and equitable society (USSASA, 2004).

In South Africa though, there is little in place by way of legislation and there is a lack of policy regarding risks in sport in secondary schools, since the change of governance of schools with the new Constitution (Act 108 of 1996). The Constitution brought in changes of governance in schools in that public schools are now managed by governing bodies. Governing bodies comprise parents, learners in their eighth grade or higher, educators and non-educational staff. The professional management of the school should still be undertaken by the principal under the authority of the Head of the Education Department (SA Schools Act 84/ 1996). The Constitution does not focus on the management of sport or risks within school sport as the Constitution does not deal with specific issues or social activities but only provides a broad framework regulating all social activities including sport (Singh, 2001).

South African children still participate in school sport activities purely for fun and pleasure. These activities may help children gain physical fitness, mental and emotional health. Therefore managers of school sport must ensure a safe environment, minimising any potential risks. Risks in sport that could be identified are the likelihood of injuries such as breaks, sprains, concussions and contusions and fatal accidents. Fatal accidents are classified as catastrophic risks that should be considered by schools (Cloutier, 2003). An example is for instance, when learners are transported to matches or training sessions and the potential exists that they might be involved in a car accident as in the case of *Minister of Education and Culture (House of Delegates) vs Azel (1995)*. Although the case of *Azel (1995)* was a case of indemnity, it is important for educators to be in the possession of a professional driving permit (PDP), that should be kept in the vehicle, when learners are transported to and from training or competitions as stipulated by the National Road Traffic Act (93 of 1996). The case of *Azel (1995)* will be discussed later in this chapter. This also emphasises the fact that educators should take special care of learners by trying to prevent any injury that might occur by ensuring proper supervision and also contributing to the establishment of Risk

Management Plans. Risk Management Plans are put in place to ensure that policies and procedures are made clear to participants and educators and hopefully it will contribute to the climate of success at a school (Pashiardis, 2000).

Gaining and maintaining a professional standard of care for risk management at schools is important for both users and school managers as increasing numbers of secondary school learners are injured each year in gyms and on playing fields (Sawyer, 1993; Christiansen, 1986). According to the Occupational Health and Safety Act (Act 85 of 1993) the employer, (in this case either the principal of the school or the governing body of the school), is required to bring about and maintain a work (or play) environment that is safe, without risk or hazardous substances such as equipment, facilities that may cause injury or damage to the employee, in this case the educator and learners. Injuries could result in permanent disability or even death of students, affecting any future sporting career at an early age (Leaver, 2001). The following two incidents serve as examples of learners that were injured on the sport field. No further information was obtained to establish if there were any claims or litigation against the various schools, coaches or the Department of Education with regard to the injuries of the two learners. Gerhard Swarts (14), a learner of Hoërskool Kanonkop in Middelburg, broke his neck during a rugby match and was paralysed for life (Magnus, 2003). In Bloemfontein, the Hoërskool President mourned the death of Hendrik van der Walt who died of a brain injury sustained in a rugby match on the 15th of March 2002 (Schmidt & Lawrence, 2002). These types of injuries could result in potential lawsuits as parents or participants could hold schools or the school management liable for these injuries. An example is the mother of rugby player Thabang M'belle who blames her son's school for 'not taking him back to a doctor to make sure the period of rest was not too short before putting him back on the rugby field.' M'belle complained to his captain of blurred vision and a headache during a rugby match. He collapsed during the second half of the match and was declared brain dead the following evening in the Milpark Clinic in Johannesburg (Schmidt & Lawrence, 2002). It is not known if this case resulted in litigation.

Risk management is perceived as an effective management tool used to reduce potential legal liability (Rigby Cooke Lawyers, 2001). Accidents occur due to poor management and the lack of risk management programmes or plans (Williams, 1994). A risk management plan has to be developed to assist in the reduction of any possible risk and accidents that might occur

on the playground or during any other physical activity. To develop a plan, all the potential risks should be analysed in order to minimise any damage, injuries or potential financial losses (Moore, 1995). Hoffman (1994) states that a formal risk audit is an essential part of a risk programme and should be done on an annual basis.

The problem is thus to identify and assess current practices that are related to the management of school sport in order to recommend guidelines for policy, procedures and practices for risk management in sport at secondary schools in Gauteng. The researcher will make use of sampling methods covering the whole province ensuring that relevant information from the province will be gathered. To seek solutions regarding this problem, this study focuses on risk management from a sport management perspective and not a purely legal perspective. The legal perspective of this study focuses on the delict theory in the context of education and sport in South Africa.

1.2 STATEMENT OF THE SUB-PROBLEMS

The problem is to identify and assess current practices related to the management of school sport. In order to do this, one needs to:

- Describe general law principles, the law in education and sport as well as risk management,
- Investigate how risks in sport at schools are managed and what current policies, procedures and practices are in place,
- Assess the management of risks by sport managers in secondary schools in terms of risks, and
- Make recommendations for the management of risks in school sport.

1.3 CLARIFICATION OF CONCEPTS

1.3.1 Sport Manager

For the purpose of this study, sport manager would refer to leaders that were identified as physical educators, sport educators, coaches, trainers, sport administrators and volunteers (Singh & Gray, 2002).

1.3.2 Risk Management

Risk Management is a tool used to identify and reduce risks in sport at secondary schools. The value thereof is that possible injuries in secondary school sport could either be prevented or reduced.

Horine (1991) describes Risk Management as a total programme analysing where and why accidents may occur and how hazards may be controlled and determine which calculated risks are acceptable. Clement (1988) and Saayman (1993) agree with Horine replying that Risk Management is the identification, evaluation and control of loss to property, clients, employees and the public and serves as the means of minimising the accident potential and removing the risks not part of an activity.



For the purpose of this study, Risk Management could be described as a total programme used to manage any potential risk that might occur while participating in a physical activity in order to either remove or reduce the risk.

1.3.3 Delict

A Delict refers to those actions of a person that could cause harm to another person.

Singh (1999) stated that the law is divided into criminal and civil law. Criminal law is applicable where a crime, as a wrongful act, is committed and the wrongdoer subjected to punishment. Civil law is where the actions of a legal entity lead to the injury or loss on the part of another (Basson & Loubser, 2000). The law of delict forms part of civil law. Neethling, Potgieter and Visser (2001) state that a delict as the act of a person that in a wrongful or culpable (negligent or intentional) way causes harm to another. In civil law

delictual law, is designed to compensate the person who has suffered injury or loss as a result of the fault of another.

For the purpose of this study, a delict could be defined as the act of a person, in this case the sport manager, in a wrongful and culpable way causing harm or loss to another, the learner (Singh, 1999).

1.3.4 Negligence

Negligence is a form of fault (liability) and a description of a person's behaviour. The question is raised whether a reasonable person (*diligens paterfamilias*) in the same circumstances would act in the same way or would that person prevent the consequences that could take place (Snyman, 1999). In other words, the expectation regarding people in authority is that they conduct themselves in a prudent manner.

Negligence, also known as *culpa*, according to Hosten, Edwards, Bosman & Church (1995), is where a person does not intend to bring about the consequences of his act, the law may still regard the act as blameworthy if it did not correspond to the standard of care required by law. Standard of care will be discussed in Chapter 2

A person is negligent if the reasonable person in his position would have acted differently, and according to the courts the reasonable person would have acted differently if the unlawful causing of harm was foreseeable and preventable (Neethling, Potgieter & Visser, 2001). Foreseeability and preventability will be explained in Chapter 2

For the purpose of this chapter negligence is the breach of a legal duty to take care with result that harm is caused to the plaintiff (Elliott & Quinn, 1999). Negligence will further be discussed in Chapter 2.

1.3.5 Plaintiff

The plaintiff is the party who institutes legal proceedings (Du Plessis, 1999).

Thomas, Van der Merwe and Stoop (1998) identify the plaintiff as the victim or creditor that brings personal action against the wrongdoer claiming a sum of money or monetary penalty.

For the purpose of this study, the plaintiff is a person who institutes action in a civil case (Singh, 1999).

1.3.6 Defendant

The defendant is the party against whom legal proceedings are instituted (Du Plessis, 1999).

Unlawful acts need two (2) parties. The one party is the victim (plaintiff) and the other party is the alleged perpetrator (defender) known as the debtor of the obligation, against whom actions are taken and claims are laid (Thomas, Van der Merwe & Stoop, 1998).

For the purpose of this study, the defendant could be defined as the person who defends an action in a civil case (Singh, 1999).



1.4 IMPORTANCE OF THE STUDY

Risk management is necessary for the survival of sport service providers since it provides a method for offering quality experiences in a safe environment and safeguards the leaders, administrators and organisations from the law. No person in an organisation is immune from litigation and lawsuits are very costly (Peterson & Hronek, 1992).

Increased participation of youth in sport could result in increased violence and injuries in school sport and secondary schools in South Africa, as sport service providers could be held liable for injuries incurred during participation in a physical activity at school. In the case of *Broom vs Administrator Natal*, (1966), a claim was made against a teacher and his employer concerning the negligence of a teacher who allowed boys to play rounders for physical exercise. One of the boys hit the ball and the bat (cricket wicket) slipped out of his hands and struck one of his team mates five metres away from him. The teacher was found not guilty of

negligence by the court because injuries in rounders are not serious, occur very seldom and because the use of a wicket, without a metal ring, does not in itself constitute negligence (Prinsloo, 1991; Parmanand, 1987). More responsibilities are placed on sport managers to prevent or minimise injuries to learners and should be concerned about injuries (Sawyer, 1993; Labuschagne & Skea, 1999) as they have serious legal implications for the beneficiaries involved in school sport. They could be alleged to be negligent and / or incompetent. It is thus the duty of the educator to take reasonable care of learners. The educator acts *in loco parentis*, meaning ‘in place of a parent’. This does not mean that the parent is substituted but only that the parent depends on the trained educational skills of an educator who has an obligation of caring for and providing supervision for the physical welfare of a learner, in areas posing a hazard to the physical safety of a learner, for example on the sportfields and playgrounds (Oosthuizen, 1998). It is legally expected from schools to take care that athlete’s and learners do not participate in sport activities in circumstances creating unacceptable high injury risk (Labuschagne & Skea, 1999). Breaching that duty causing physical injury to the learner, gives rise to a claim for damages (Trisley, 1990). This results in a complicated network with beneficiaries such as the learner, parents, general public and the organised teaching profession due to the fact that each of the beneficiaries has their own interest in the learner. These beneficiaries could benefit from risk management programmes in that:

- **Learners** could practice physical activities in a safe environment, controlled by policies and procedures under the supervision of qualified staff;
- **Educators** are provided with proper tools to supervise and coach sport and physical activities in a safe environment;
- **Principals** are provided with policy and procedure documents to assist in the management of staff responsible for physical activities; and
- **Governing bodies and the school as institution** are assured that learners would be able to engage in physical activities with the supervision of competent educators who would minimise possible injuries.

All of these beneficiaries could also be safeguarded against unnecessary lawsuits.

The governance of schools has changed since the new Constitution was passed in 1996. The Constitution is the supreme law of the Republic. Any law or conduct that is inconsistent with the Constitution is invalid and the obligations imposed by it must be adhered to. The Constitution does not focus on specific issues such as sport or risk management. A law

applicable to this study with regard to education is the Act on Education (Act 84 of 1996). This act states that educators should be skilled and competent to do their work and risks are regarded in terms of management of AIDS and prevention of crime and violence in schools. It is the duty of the principal to apply departmental instructions, which require that school sport shall take place under the supervision of competent teachers being able to teach and being competent to coach a particular activity (Teachers' Federal Council, 1990). This is to prevent any charges that could be laid against the school or the teacher. The principal should also see that the parents of a participant, give a letter of consent saying that the pupil consents to participation and potential risk of injury whilst the game is played according to the rules (Teachers' Federal Council, 1990). In the case of *Minister of Education and Culture (House of Delegates) vs Azel* (1995), a minor pupil at a Pretoria school had been seriously injured in a motor vehicle accident whilst on an educational and recreational tour arranged by his educator. The mother of the pupil signed an indemnity absolving the Department of Education and Culture from liability in certain circumstances should the pupil be injured. The minibus that was provided as transport to the learners was not adequate and the educator conveyed two learners in her car. The educator lost control of her car on the way, collided with a tree causing injuries to the pupils. The educator was found to drive negligently, not taking reasonable precautions to avoid the accident. The educator relied on the indemnity signed by the mother. Although the indemnity exempted the Department of Education and Culture from certain circumstances, it stated that the principal and staff would nevertheless take reasonable precautions for the safety and the welfare of the child. The appeal court confirmed the decision of the local court and the appeal was dismissed. Indemnity was not regarded as a defence to the claim for damages for injuries caused by the negligence of the educator (Singh, 1999). It is further also the duty of the principal to warn participants and educators of all possible risks and keep them safe from these potential risks (Fried, 1998).

The law of education is applied in order to solve and regulate conflicts between beneficiaries and to create a basis for harmonious co-operation for the sake of the learner's progress in order to provide a secure educational environment (Oosthuizen & Van der Westhuizen, 1998). The law of education, referring to the South African law of education, relying on and entailing the rules and contents of the South African private law, public law and formal law. Focusing on private law, an educator could be held delictually liable should an educator's

negligence or incompetence have a bearing on the injuries of a learner (Oosthuizen & Van der Westhuizen, 1998).

Seeing that educators could be held delictually liable for injuries acquired in a gym or on the playing field, it is important that the educator should be made aware of the principles of the law of delict in order to take steps to prevent any harm or injuries that might occur (Botha, 1998).

1.4.1 Literature Review

Previous scientific research completed by Singh (1999) on risk management in sport was done in terms of tertiary institutions, evaluating risk management policies and practices in sport. Singh placed great emphasis on safety in sport. He focused on sport injury lawsuits and to a lesser extent on civil rights, seeing that this is the main source of the relationship between sport and the law that will affect the lives of sport managers, coaches and physical educators not just at tertiary institutions, but also at secondary institutions. The need was identified to look at safety in sport at secondary schools due to the fact that little scientific research was done in South Africa since the governance in schools had changed with the 1996 Constitution (Act 108 of 1996) which regulates all societal activities including sport (Singh, 2001).

Other studies done regarding secondary schools in South Africa after 1996, were carried out by Gerber (2000) focusing on the development of a management plan for sport in secondary schools. He sampled one school at which he conducted a case study. He did not investigate current management practices in schools in order to develop a management plan applicable to all schools. His study shows a lack of scientific research relevant to this study as it did not focus on risk management practices and plans and the sampling of only one school is insignificant for establishing what is going on in secondary schools in general. Sampling of various schools has to take place to find out what is happening in the management of sport at secondary schools.

Van Deventer (2002) gave an overview of the past, present and future of physical education in Africa. He tried to provide an understanding of the African way of life by briefly describing African philosophy. He gave a historical background on physical education in African

countries such as Botswana, Kenya, Tanzania and South Africa. He stated that the development of physical education and sport would not be an easy task due to scarce resources and that the majority of children might be excluded from the potentially positive educational effects of physical education and the development of sport potential through physical education.

Singh & Gray (2002) wrote an article on the legal perspective on the supervision of physical activity by reviewing the duties of leaders of physical activity. These leaders were identified not just as physical educators or sport teachers but also coaches, trainers, sport administrators and volunteers. They made reference to various aspects related to supervision of physical activity and recommended certain guidelines for adequate and effective supervision.

Scott (1991) investigated the value for a sport and recreation practitioner with knowledge of law. He stated that law is a social phenomenon embracing virtually all human activity including sport and recreation in which human conduct takes place. He also came to the conclusion that sport law does exist and the only reason it has not yet been widely recognised in South Africa is that the need up till now has not been felt. He further identified the need not to train sport and recreation practitioners as lawyers but to create a culture of legal awareness when embarking on any sport and recreation activity. This should be done through education at tertiary institutions offering courses in sport law, teaching fundamental concepts and literature should be developed to offer such courses. Since then various developments took place and several contributions had been made to South African literature with regard to sport law.

Singh (2001) compiled a review of 20th century literature related to sport law dating back to 1975. His research revealed several shortcomings in the literature of the components of common sport law and further identified areas of concern that should be addressed. Gouws (1997) included a chapter on sport law in his book on *Sport Management* as an overview of sport law. Singh (2001) identified shortcomings in his book in that only one American reference work was acknowledged and that the author did not provide an analysis or an evaluation of the law in sport.

Basson and Loubser (2000) added a valuable contribution to literature on sport law with their book *Sport and the Law in South Africa*. It contributed to various aspects of sport and the law providing information on the relevant principles of law as well as the practical application of the law to sport. Selected specimen documents have also been included to assist sport administrators at club, regional or national level in dealing with certain contracts and organisational matters. It also consists of the most important Constitutional Acts related to sport in South Africa. The book is in a loose-leaf format allowing updating and expansion to keep track of developments in sport and the law.

Singh (2002) wrote a module on sport law being presented in the certificate programme (in Sport Administration). The purpose of this module is for trainees to identify and conform to relevant legislation, to identify potential and existing risks in the playing environment, to implement a plan to reduce or prevent the risks associated with participation in physical activity at schools and to be accountable for the standard of care provided to scholars involved in sport and recreation. This module provides sport administrators with the basic knowledge on managing risks and adds significant value to literature related to sport law in South Africa.

Heaney (2001) argues that plans, rules and regulations are necessary to ensure that there are agreed approaches to working in institutions. This argument could also relate to schools as institutions. This contributes to the importance of policies, procedures and good practices regarding the safety in school sport and thus the importance of this investigation to make recommendations regarding policies, procedures and good practices. These recommendations could be of use in order to draft a policy and procedures document regarding safety in sport at secondary schools as well as in the development of information and training resources to assist and train staff directly responsible for physical activities and the management of schools in implementing sport safety.

1.5 RESEARCH METHODOLOGY

Research methodology will be discussed fully in Chapter 3. For the purpose of this chapter it is only necessary to know that this is an empirical study based on quantitative information on risks in school sport. The population of this study comprised 450 secondary schools in Gauteng of which a population of 100 schools were selected from the list of schools that was provided by the Gauteng Department of Education. A questionnaire was used as the instrument for this study. The instrument was used to identify and assess the current risk policies and procedures in sport at secondary schools in Gauteng as perceived by the sport managers of the schools.

1.6 STRUCTURE OF REPORT

The second chapter forms the theoretical framework of this investigation, focusing on the Risk Management Theory as well as the Delict Theory regarding negligence and incompetence of educators. The functions of the principal and head of sport are described as well as aspects of the law specific to school sport.

Chapter three gives a thorough description of the methodology used in conducting the study and explains the procedures used to collect and analyse information.

Chapter four provides the analyses of and discusses the results of the questionnaire with regard to the current risk policies and practices in sport at secondary schools in Gauteng as provided by the sport managers.

Chapter five forms the concluding chapter and gives recommendations regarding policies, procedures and practices that could be followed to ensure that sport is practised in a safe environment at secondary schools.

1.7 CONCLUSION

This chapter provides a background to the problem of investigation regarding risks in school sport. It offers the reader information regarding the method followed to conduct this study and gives a brief outline of the study.

CHAPTER 2

RISK MANAGEMENT AND THE LAW IN EDUCATION AND SPORT

2.1 INTRODUCTION

The purpose of this chapter is to give the reader a theoretical background of risk management within sport and physical education in secondary schools as well as its relationship with the law. Elements of the risk management programme will be discussed to assist sport managers in their management of risks within their daily operations. An attempt would be made to inform sport managers of the legal aspects from a sport and delict perspective. This would make them aware of the impact the law has on their daily operations.

2.2 RISK MANAGEMENT AND THE LAW

‘Regardless of safety measures and risk management activities, accidents will occur. With accidents come claims and lawsuits with high costs in time and funds’ (Mull, Bayless, Ross, Jamieson, 1997). It is the role of the manager to minimise and manage legal risks of an institution due to the unprecedented growth in user participation and injury litigation (Kaizer, 1986).

It is important that sport managers, take responsibility for a group of people and should be concerned with issues of safety and liability in the eyes of the law when conducting sport programmes. Anyone could be sued and the success in the court of law will rest largely upon whether the programme met the appropriate standard of care regarding the activity, the equipment and facilities and whether proper and adequate supervision were provided (Clement, 1988). An example is the aforementioned case of *Broom vs Administrator, Natal (1966)* concerning the negligence of a teacher allowing boys to play rounders for physical education. South African society and school governance has changed since 1966 and if the same incident should occur today, the judgement might be different. Managers depend on coaches and educators to provide data for administrative decisions. The manager is also responsible for the actions of subordinates (Rabinoff, 1997). This makes it important for the manager to learn how the litigation process works taking safety measures in consideration.

2.2.1 Describing the law as a phenomenon

According to the study performed by Singh (1999), there is no universally accepted definition of law, except for two concepts stressing that the law is a body of rules striving to attain justice and at the other end that the law is a set of norms intended to regulate human conduct. He identified four systems of norms regarding the law. Firstly, the law could be regarded as a system defining relationships between people, where an injured person may assert the right to be compensated for the injury caused by the carelessness of another person. Secondly, the law is seen as a system of principles dictating to citizens how to behave, not committing a criminal act that under the law is seen as evil. Thirdly, the law system informs people that they should behave in a reasonable manner according to how a reasonable person would behave. For example, a coach or educator should not assault learners during sport activities, behaving in an unacceptable manner. Lastly, the system of the law creates and limits freedom through a constitution ensuring people the freedom of being citizens of the Republic but also limited within the law (Singh, 1999). For example, the law does not grant people the freedom to act indecently in public by streaking at a rugby match.

The Constitution of the Republic of South Africa (Act 108 of 1996) is the supreme law of the Republic and the judicial authority of the country is vested in the courts, which are independent and subject only to the Constitution and the law. The Department of Justice presents legislation through the provision of adequate resources for the proper and efficient functioning of the criminal and civil justice systems (Government Communication and Information, 2000). Joubert and Prinsloo (2001) classified the South African legal system into two main groups: substantive and procedural law. Substantive law deals with the legal principles and rule of persons and is divided into public and private law. Procedural law, also known as formal law, is responsible for prescribing the procedures according to which legal rules are enforced. The system is illustrated in table 2.1.

Table 2.1 Main branches of the South African Legal System (Joubert & Prinsloo, 2001; Oosthuizen & Van der Westhuizen, 1998)

Substantive Law		Procedural / Formal Law
Public Law	Private Law	
Constitutional Law	Law of persons	Civil procedure
Administrative Law	Family Law	Delict
Criminal Law	Law of obligations:	Criminal procedure
Labour Law	Delict	Evidence
	Contract	Interpretation of Statutes
	Law of Successions	

2.2.2 The Law of Delict

The law was developed with all kinds of remedies available in the courts and the circumstances in which remedies were granted to the aggrieved party (Fridman, 1978). The law of delict, which forms part of the civil law or private law, as described in table 2.1, covers a wide range of situations and in broad terms occurs where there is a breach of general duty fixed by civil law. The law of delict is built on three pillars,

- 1) *actio legis aquiliae* – action taken to get remunerated for injury of property,
- 2) *actio iniuriarum* – action because of deliberate assault on character / character injury, and
- 3) *action for pain and suffering* – that was developed in the Roman Dutch Law (Thomas, Van der Merwe & Stoop, 1998). When a delict is committed, the victim is allowed to claim for damages to be paid by the person who committed the delict, called the accused or defendant (Elliot & Quinn, 1999). In modern terms delicts are types of wrongful and harmful conducts or unlawful acts which are redressible by an appropriate legal action and involves two parties, the victim and the perpetrator (Fridman, 1978; Thomas, Van der Merwe & Stoop, 1998).

The difference between a crime and a delict is that a crime is a wrongful action punished by the state, aiming to punish the wrongdoer. Wrongfulness is the rejection of certain actions in the eyes of the community (Van der Walt, 2000). A delict is an action between the wrongdoer and the victim where it aims to compensate the victim for any harm done. The

victim has a personal action against the wrongdoer claiming for damages in the form of a sum of money, monetary penalty or a financial award (Thomas, Van der Merwe & Stoop, 1998).

To constitute a delict, there must be proof that a person has caused harm or damage to another by means of an act or conduct. A conduct is a prerequisite for delictual liability and could also be described as a voluntary human act or omission. This conduct could be one of intention where a person's actions were deliberate and knowing behaviour, and one of negligence when doing something without intending to cause damage or malice, acting with a bad motive (Elliot & Quinn, 1999; Neethling, Potgieter & Visser, 2001). Common characteristics of a delict are *dolus* (deliberate action) and *culpa* (negligence) (Thomas, Van der Merwe & Stoop, 1998).

Negligence is an important delict in modern law and could be described as the breach of legal duty to take care with result that harm is caused to the plaintiff. Negligence as described in Black's Law Dictionary (quoted by Collins, 1998:27), is 'the omission to do something, which a reasonable person would do, or the doing of something, which a reasonable and prudent person would not do'. Elliot & Quinn (1999) states that negligence law aims to protect people against personal injury, harm to property and economic loss. Collins (1998) also identified the elements of negligence in sport as:

- A legal duty of care,
- Breach of the legal duty,
- The breach of the legal duty as the proximate cause of the injury, and
- Substantial damage or harm.

Negligence rests on two pillars, namely reasonable foreseeability and reasonable preventability of damage. Foreseeability in the abstract approach asks the question whether the conduct of a person in general created an unreasonable risk of harm to others. In the concrete approach it is based on the premise that a person's conduct may not only be described as negligent in regard to a specific consequence or consequences. Thus a person is only negligent with reference to a specific consequence if that consequence was reasonably foreseeable. Preventability is when a reasonable person would take measures to prevent the occurrence of a foreseeable harm if a person fails to do so, that person acted negligently. It

should be self-evident that the negligent act may only be evaluated against all the relevant circumstances of the case (Neethling, Potgieter & Visser, 2001).

2.2.2.1 Duty of Care

The test of negligence is to determine the 'duty of care doctrine' (Neethling, Potgieter & Visser, 2001). The 'duty of care doctrine is based on the neighbourhood principle of Elliot and Quinn (1999:15), that ' you must take reasonable care to avoid acts or omissions which you can reasonably foresee would be likely to injure your neighbour.' By neighbour it is meant persons that are closely and directly affected by the acts or omissions performed by another person called in question. An omission is an act a person fails to do. Most common cases of negligence regards 'duty of care' where there were damage to property or physical injuries to a participant due to the lack of reasonable care. A persons or educators duty to supervise stems from the duty of care and is based on the relationship between the plaintiff and the defendant (Merriman, 1993). This also refers to the educator acting *in loco parentis* providing supervision to the learner trying to prevent any hazardous situation a learner might find him/ herself in. Examples are where learners get injured on the sport field or playground where an educator was not present as expected or made the learner perform a physical activity that resulted in a injury or by not giving proper instructions or take care that it was performed in the correct manner. In *Thompson vs Seattle Public School District (1990)* a sum of \$6,2 million was awarded to a secondary school football player sustaining neck injuries from lowering his head to ward off tacklers during a match and was not warned of the inherent danger of his action (Sharp, 1990; Girvan & Girvan, 1993).

Establishing 'duty of care' is a step towards making a person liable although it should still be proven. Neethling, Potgieter and Visser (2001), stated that one could establish whether or not proper care was taken by determining whether a duty of care was owed to the plaintiff, and the second criteria whether a reasonable person in the same position of the defendant would have foreseen that his/her conduct might cause damage to the plaintiff. Issues of conduct are thus related to the issue of duty, where it should be established whether the defendant owed the plaintiff duty of care and the issue of negligence were after it was established that duty of care was owed, whether there was a breach of duty of care. Duty of care at secondary schools is to ensure that proper safety measures are in place during any physical activity.

2.2.2.2 Breach of duty of care

Breach of duty of care occurs when the defendant falls below the standard of behaviour expected by someone undertaking the activity concerned. A standard of reasonableness in duty of care should be generated in that a reasonable person would take precautions. In order to claim for negligence, it must be proven that the defendant's breach of duty caused harm to the plaintiff and the harm should be evident (Elliot & Quinn, 1999).

The term *volenti non fit injuria* states that no injury could be done to a willing person, thus the consent to voluntarily taking the risk of harm prevents the plaintiff from alleging negligence and making claims (Van der Walt, 2000; Elliot & Quinn, 1999). Somebody participating in sport, consents to the risk of injury. Sport is monotonous without any level of risk. If it could be proven that the plaintiff was aware of the risk of injury, then it might be evident that the plaintiff consented to the risk and the plaintiff should also be mentally capable of giving consent (Hosten, Edwards, Bosman & Church, 1995). In the case of *Boshoff vs Boshoff* (1987), the two brothers played a friendly squash match when the racket slipped out of the one brother's hand and hit the other brother on the eye and injured him. The court ruled that it was not against good morals when individuals consent to receive certain reasonable injuries caused by co-participants in the course of lawful sport or physical recreation. The court also ruled that the risk must be accepted voluntarily and that the person who consents must be aware of the nature of the risk. In this case the plaintiff accepted the risk voluntarily and therefore no unlawful act was committed (Prinsloo, 1991).

The defendant could not be charged with breach of duty of care unless it is the legal duty of that person to prevent injuries. If a reasonable person could not do so, that person could be held liable for the injuries (Van der Walt, 2000). If a referee in the duration of a rugby match did not prevent an injury caused by continuous high tackles during the match, the referee acted wrongfully and is held liable for that injury. Van Heerden (1996) uses the example of a paralysed British rugby forward who claimed his injuries were partly caused by the referee's failure to take the necessary action to stop scrums collapsing. It raised the possibility of referees being held legally liable for the consequences of their decisions and their control of the game. The legal term *volenti non fit injuria* may, however, protect the referee provided that he adheres strictly to the rules of the game.

A principal is also liable to see that reasonable care is taken of educators to ensure the safety of all educators. It is the duty of a principal to ensure the provision of competent (skilled or able to do the work) staff, adequate material, proper systems and effective supervision. Specialised knowledge and certain skills are a prerequisite for the successful practising of a profession, therefore a prospective employee such as an educator should receive extensive and intensive training to be able to master the required skills (Oosthuizen, 1998). If a member of staff is not competent to do the work and in the process causes injury to another person, the employer is liable for the wrongdoing (Elliot & Quinn, 1999). Labuschagne (1999) reports on an incident of *Astrid Veenhoven vs Christelijke Gymnastiek Vereeniging Oranje-Nassau Emmen and Anja Hildebrands* (1998) in the Netherlands that occurred in October 1995 in which a 14-year-old gymnast, Astrid Veenhoven, injured herself during a practice under supervision of Anja Hildebrands and Ruud Williams. Anja was a known coach at a known gymnastics federation and Ruud a trained gymnast. At that stage Anja did not know much about ring exercises and Ruud, although well trained, never had done the particular movement on the rings before. Astrid handled the movement very well and all the necessary requirements were met for the particular movement, thus nothing could have prevented her fall. Astrid's father claimed compensation for her damage. It was thrown out of court in Assen on 3 March 1992. He then appealed to the 'Gerechtshof te Leeuwarden' in which the court then ruled that (i) Anja was not qualified in ring exercises and was in return not skilled enough to coach gymnasts or to be a leader for other coaches, and (ii) Ruud had never performed the movement and therefore was not aware of all the dangers involved in the movement and also did not keep proper supervision over the athletes. The court then concluded that Anja did not give proper supervision and that in the fall of Astrid, Anja and the gymnastic association (her employer) would remain liable and that proper preventative measures were not taken to prevent Astrid's fall.

An educator at a school (facility) remains liable to ensure that the premises are reasonably safe to allow the use of school facilities. If the educator allows children to make use of the school facility, then he should be prepared for children to be less careful than adults and thus ensure that the premises are reasonably safe for a child of that age (Elliot & Quinn, 1999).

In the case where a person remains liable for the wrongdoings of another person, due to the relationship between the two people, it is called *vicarious liability*. For example in the

relationship between the principal of a school or a governing body of a school and a sport manager at the school, the principal or the governing body of the school could be liable for the actions of the sport manager (Fridman, 1978; Elliot & Quinn, 1999). The doctrine of vicarious liability may be found within the maxim, *qui facit per alium facit per se*, meaning that the reason for such a liability is that the person held vicariously liable is treated as if he had committed the act even though it was committed by someone else (Fridman, 1978). An employer such as a principal could not be held responsible for acts that have nothing to do with the employment of a person such as an educator. In a situation where the employer was sued for the wrongdoing of an employee acting within the course and scope his or her employment, the employer could sue the employee in return to recover part of the financial damages through civil liability.

An employer could thus be held liable because of the following reasons: (Elliot & Quinn, 1999):

- An employer is supposed to be in control of employees and therefore is responsible for their acts,
- Employers benefit from the work done by employees and are therefore liable for any damages caused in their performance of work,
- An employer is in the best financial position to meet the claim,
- An employer was negligent in selecting employees, which doesn't mean that the employee was unfit for work but rather not suitable for the position due to his/her competencies,
- It is the duty of an employer to encourage and motivate employees to take care in their performance of work.

2.2.3 Law of Education

The education environment in the modern world is a complicated network of relationships. Beneficiaries such as the school, organised teaching profession, parents, learners, general public and educational authorities co-operate as partners that share some objectives of educational teaching (Oosthuizen & Van der Westhuizen, 1998; National Sports Council, 1995). Learners have a need for education that starts at home and makes the school the other concerned party responsible to educate them. Education thus becomes a necessity for learners

to develop physically and psychologically. This aspect is one of the conflicts that have to be resolved (Gerber, 2000). In order to create a basis for co-operation between beneficiaries, the law of education is applied. Such co-operation demands that interests of all parties involved are juridically reconciled through the stipulation of policies, organisational arrangements, procedural arrangements and measures of control (National Sports Council, 1995). This is to insure a secure environment in which the learner may develop.

According to Cockrell (n.d.) the educator should contribute to a safe environment and atmosphere where the learner may feel free to receive effective education. Cockrell refers to 'safe schools'. With 'safe schools' it is meant (TASB School Safety Services, 2000):

- Secure buildings free of debris, trash and obstacles, slippery floors when wet and buildings that are well lit with properly marked exits.
- They extend beyond school grounds, encompassing the safety of students going home and back.
- School environments where students and staff are free from the threat of violence and disruption, where learning and personal growth are maximised.

This also includes safety on the sport grounds.

The law of education falls within the South African Legal System that is divided into Public Law, Private Law and Formal Law. As an institution of the state, public education is based upon aspects of public law that regulate the relationship between the state and the individual, directed at the public interest. Public law plays an important role in organising education since education is controlled by the state (Joubert & Prinsloo, 2001). Private law deals with the relationship between the state and the subject, thus regulating the mutual relationships between private individuals. Private law, under the law of obligations deals with the law of delict as an unlawful negligent act committed by a wrongdoer. Thus an educator could be held delictually liable for the injuries of a learner if proven that the educator acted irresponsibly or that there was negligence on his/ her part (National Sports Council, 1995). The educator could then be held responsible to pay for any damages or loss that might occur if proven that he acted irresponsibly. Formal law describes procedural rules that should be followed when a statute, regulation or rule has been contravened as well as the provision thereof that must be enforced within the law. The educator should be made aware of procedures that should be followed in the presentation of courses and performance of certain

actions within the educational environment. It is therefore important for the educator to have a basic knowledge of statutes, interpretation of the Constitution, education legislation, labour law and school rules (Oosthuizen & Van der Westhuizen, 1998). Some of these aspects are stipulated in the manual compiled by the former South African National Sports Council (1995) in that the Education Department requires the following from schools:

- A clear policy in respect of pupil safety.
- Guidance to teachers and pupils in respect of safety principles.
- The implementation of a policy, especially regarding activities that are potentially dangerous.
- The identification of unsafe situations and the application of preventive measures.
- The application of disciplinary measures when safety rules are deliberately broken.
- Careful record of all school accidents in order to prevent their repetition.

Some of the pitfalls and risks involved in the management of schools are (National Sports Council, 1995):

- School rules are not formulated properly.
- School policies and administrative practices are not an accurate reflection of the department's policy and regulations.
- Local procedures are not fair and reasonable.
- Evidence cannot be produced when problems arise.
- The school does not create a safe climate and environment.
- The teachers ignore pupils' rights.
- The legal aspects of staff management are ignored.

To provide appropriate safety programmes for sport or physical education, safety should be emphasised from the top, insisting that safety has a high priority (Horine, 1991). The aspect of importance for educators in this regard is the South African Schools Act (84/1996) amended by the Education Laws Amendment Act (100/1997). This act provides a uniform system for the organisation, governance and funding of schools throughout the Republic of South Africa; to amend and repeal certain laws relating to schools; to provide for matters connected therewith and to set uniform norms and standards for the education of learners at schools and their organisation. This legislation is enacted by the Parliament and provides legal parameters to the education and governing bodies within which they should perform.

To ensure safety programmes in schools, safety policies and regulations should be enforced by the Department of Education.

2.2.4 Sport Law

The field of Sport Law is a relatively new field of law, which applies the legal theory and precedent to issues arising from the conduct of sport and physical education (Sharp, 1990). The worldwide trend of increased participation in sport required the law to intervene in a number of situations and for a variety of reasons (Collins, 1993). By participation is meant participation as an athlete or a spectator. Incidents resulting in injuries, death or any other loss on the sport field and other incidents at professional participation level, amateur level or school sport level, also emphasise the need for sport law in South Africa. Incidents that could be recorded over the past decade or two are the ear biting incident in the Springbok Rugby match against New Zealand where Johan Le Roux, Springbok player, bit New Zealand player, Sean Fitzpatrick's, ear and was suspended for life. Other incidents involved the former South African Cricket Captain, Hansie Cronjé, banned for life from cricket because of match fixing, as well as the Ellis Park stampede that could have had serious implications for the various role players. There are few recently listed incidents of injuries while participating in physical activities at schools in South Africa that have led to lawsuits. Participation in physical activities, provides an environment in which people can experience risks in a controlled setting (Singh, 1999). In countries such as the United States of America, in the year 1981 as noted by Connors and Appenzeller (quoted by Clement, 1989), 200-500 incidents were reported every year and between 1,200 and 3000 lawsuits were brought against teachers and administrators every year. Statistics showed that between the years 1970 to 1986, a 150% increase in lawsuits related to sport and recreation was recorded (Singh, 1999). These abovementioned situations show an urgent need to raise attention to safety in school sport.

Collins (1993) states that the importance of law in sport is to control, restrict or encourage sport activities. Sharp (1990) identified three primary areas of concern in sport law, that according to Singh (1999), cover a broad range of legal disciplines such as contract, delict, labour, trade regulation, criminal and administrative law. These areas are:

- Negligence,
- Contract Law, and

- Constitutional law principles applied to sport settings.

1) Negligence was discussed earlier in this chapter as part of the Law of Delict.

2) Contract Law.

Professionals in sport and physical activity may ‘come under contract’ in a variety of ways such as being asked to sign contracts, prepare contracts for others to sign or to negotiate agreements prepared by others. Such contracts are used for employment of officials or athletes, agreements with vendors and obtaining facilities for competitions. By contract is meant a written or oral agreement between negotiating parties (Clement, 1989; Collins, 1993).

3) Constitutional law principles applied to sport settings.

A constitution is the supreme law of the country and is bound in a court of law (Clement, 1989). The laws related to sport in South Africa are the:

- National Sport and Recreation Act (110 of 1998)
- South African Sports Commission Act (109 of 1998)
- South African Institute for drug-free sport Act (14 of 1997)
- Non-profit organisations Act (71 of 1997)
- Fund-Raising Act (107 of 1978) amended by the Fund-Raising Amendment Act (41 of 1980), Act (19 of 1981), Act(92 of 1981), Act(82 of 1983), Act (115 of 1991), Act (43 of 1994) and Non-profit Organisations Act (71 of 1997).
- Lotteries Act (57 of 1997)

The laws most applicable to this study are the National Sport and Recreation Act (110/1998) and the South African Sports Commission Act (109/1998)

The purpose of the National Sport and Recreation Act (110/1998) is:

‘to provide for the promotion and development of Sport and Recreation and the co-ordination of the relationship between the Sports Commission, national and recreation federations and other agencies; to provide for measures aimed at correcting imbalances in sport and recreation; to provide for dispute resolution mechanisms in sport and recreation; to empower the Minister to make regulations; and to provide for matters connected therewith.’

This Act contains the following clauses that are applicable to this study:

- Training of Sport and Recreation leaders
- Resources for sport and recreation
- Environment and sport and recreation
- Dispute resolution
- Regulations

The South African Sports Commission Act (109/1998), provides for the establishment of a South African Sports Commission as a juristic personality and for the Commission's objectives, powers, duties as well as procedures to be followed with regard to sports management and development as well as for enhancing recreation (Singh, 1999). The Commission also allows for each provincial department of sport and recreation, falling within the ambit of the provincial legislation, to be represented by one person on the Commission and to include local sports facilities in their legislation. Local sport facilities include school sport facilities.

These areas of concern make it clear that all participants in sport and recreation, whether coaches, referees or umpires, players, supervisors, managers or spectators, are subject to the law which could be civil or criminal law. Thus, nobody in sport and recreation is exempt from legislation.

2.3 RISK MANAGEMENT

Risk management was born of human, legal and political necessity as early as the late 1800's (Hronek, 2002). Participation in any physical recreation and sport activity could lead to the potential risk of injury or death, especially with the growing trend of participation in these activities. A risk, according to Singh (1999), may be seen as anything that negatively affects the participant's experience. The risk of injuries could lead to lawsuits due to negligence (Saayman, 1993). While a risk factor is evident, it should be manageable (Peterson & Hronek, 1992). It is therefore important that the sport manager should take responsibility for risks as part of his/her management duties to protect the institution from unnecessary litigation.

Risk management is a process of limiting dangerous, harmful and hazardous situations (Byl, 2002). It is thus a process to provide a safe and controlled environment for users who participate and staff (for the purpose of this study learners and educators), through risk assessment and risk reduction providing quality experience in a safe environment (Appenzeller, 1985; Peterson & Hronek, 1992). The implication of risk management is then to increase the 'care' taken with the increase of potential risks (Horine, 1991). It is not possible to prevent or eliminate all sport injuries, but reasonable 'care' should be taken to prevent possible injuries. The goal of risk management could then be seen as to effectively minimise any risk of harm to the learner athlete, as any person engaging in sport and recreation activities has the right to expect that it would be managed safely (Sach, 1992; Singh, 1999;).

Jordan (1998) identified four areas to promote safety in an organisation or institution, called the 4 C's of safety:

- 1) Culture: - The corporate culture of concern and action for safety, demonstrating the organisations values through their staff.
- 2) Competency: - Having the right people in the right positions, providing that they are properly educated, trained and tested or certified to perform their duties.
- 3) Consequences: - Competency of staff promotes a positive culture in an organisation and is directly affected by the consequences applied to the behaviour of the staff.
- 4) Continuous improvement: - This relates to all staff who should improve and risk management in all areas of the organisation. This requires frequent and ongoing feedback and input related to safety practices and procedures as well as using and acting on the generated information.

Communication to educators and beneficiaries could be added to the list of the 4 C's of safety. Communication is vital to ensure that risk is managed effectively. Effective risk management is to establish goals and communicate them to the involved parties orally and in writing in a form of a policy. This will include a description of what risk management is all about, commitment to it and the importance thereof. Moore (1995) identified three steps to effective risk management:

- Identification of risk,

- Measurement of risk, and
- Treatment of risk that could be to eliminate, reduce or transfer the risk i.e. to an insurance company.

In order to put these steps into action, a risk management plan or programme should be developed as part of the management process.

2.3.1 Risk Management Programme

‘Risk management provides a method for offering quality leisure experiences with maximum protection for participants and adequate safeguards under the law for leaders, administrators and organisations offering recreation services’ (Peterson & Hronek, 1992: vii). A risk management programme must serve three entities: the customer, the employee and the organisation (Hronek, 2002).

When establishing risk management practices there are two conflicting issues that need to be considered:

- Good recreational sport risk management is good public policy,
- Recreational sport without some risk is monotonous.

Thus, participants should be warned of risks and extreme risks should be eliminated but not all risks should be eliminated (Mull et.al., 1997). Learners and their parents/ guardians must know, understand and appreciate dangers of participating in any activity before their valid consent is given. Parents/ guardians give consent in the form of written consent forms or indemnities indemnifying the school from any liability for damages as a result of injuries to their child that may arise from sport activities (Singh, 2002) such as in the case of *Minister of Education and Culture (House of Delegates) vs Azel* (1995). Risk management should also form part of the training of each educator in the sports work environment (Hronek, 2002). It must be kept in mind that users of sport and recreation activities partake in these activities due to the risks involved in these activities especially in adventure recreation activities such as abseiling, river rafting and even contact sports such as rugby. In order to put all of these issues in place, one needs to develop a programme for risk management with the blessing and authority of the governing body. With a risk management programme, you will be taking a proactive approach to managing risks on your playground (Peterson, 2001). A risk management programme analyses where and why accidents may occur and how it might be

controlled, and to determine which risks are acceptable (Horine, 1991). Risk management programmes are designed to identify and correct potential problems. Putting a good viable risk management programme in place reduces the number of accidents and chances of lawsuits against an organisation or institution. The goal of such a programme is to provide a safe environment to participants and employees to practice their sport and recreational activities in (Mull et. al., 1997). From an economic point of view, it aims at conserving the assets and financial resources of the institution and to achieve financial stability by reducing the potential for financial loss (Singh, 1999). It should never be considered a financial burden but rather part of everyday business (Hronek, 2002). A risk management programme is a systematic process that encompasses the following elements:

- Identification of possible risks
- Evaluation or measurements of risks
- Treatment of risks, and
- Implementation of risk management procedures.

These elements could be outlined as viewed in Figure 2.2 as part of an effective risk management process (Horine, 1991; Mull et.al., 1997).

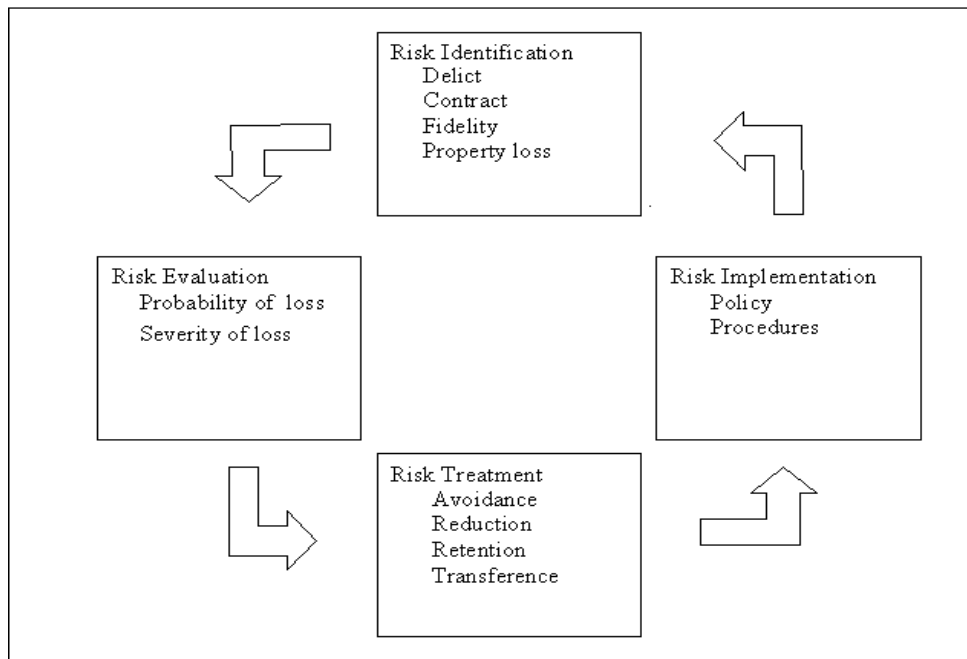


Figure 2.1 Risk Management Process (Kaizer, 1986:229)

The risk management process is not just a systematic process but also a continuous process that requires consultation and involvement in each of these stages of risk management. The success thereof depends on the education of the role players, their acceptance of the importance of risk management and the open communication of ideas (Singh, 2002). The four stages are discussed according to their order of priority according to Figure 2.2.

2.3.1.1 Risk Identification

The first step is to identify all areas exposed to potential risks before the risk becomes an incident or accident (Singh, 1999). A risk is identified in relation to delict (safety/negligence), contracts, fidelity (personnel problems) or property loss (Hronek, 2002). The purpose of risk identification is to identify and document those areas in an institution that would cause financial problems should a loss occur (Moore, 1995). In sport and recreation activities one cannot identify all areas of risk due to the complexity of the activities and the risk factors attendant to such activities. Van Heerden (1996) classified risk factors into two categories: a) Extrinsic risk factors related to the type of activity, the manner in which it is practised, the environmental conditions and the equipment involved, b) Intrinsic risk factors referring to individual physical characteristics and psychological traits.

Success of risk identification depends on the attitude of employees (Mull et.al., 1997). Staff should be involved in the development of a risk management programme in order for them to take responsibility for the programme (Thompson, 1998). Hoffman (1994) states that it is important that staff spend a good deal of time discussing various possible accident scenarios that form part of the risk identification process. A thoughtful risk manager would personalise the work of constant risk identification, thinking of his/her own family that might be next on the scene of a hazard. Risk identification is seen as an ongoing process as part of the risk management programme and requires that it should be looked at prudently and responsibly (Moore, 1995). Raminoff (quoted by Gray, 1995), identified factors that could assist with the identification of risks. These factors are:

- Defects of i.e. equipment, facilities, programmes, etc.,
- Standards of care by i.e. staffing, progressive skills development, etc.,
- Policies and procedures i.e. manuals, guides and records kept,
- Opinions as to the injury i.e. facts, causal relationships, etc., and
- Conclusion i.e. causes, responsibilities of parties involved, etc.

As part of the risk-analysis, these factors should be evaluated or measured. An identified risk is measured according to its severity and frequency, weighing it up to determine what effect it would have on the institution (Moore, 1995; Mull et. al., 1997; Hronek, 2002). This leads us to the explanation of the following step, risk evaluation or measurement.

2.3.1.2 Risk Evaluation/ Measurement

Once a risk have been identified it needs to be evaluated as it relates to the experienced or anticipated frequency and severity of the incidents (Singh, 1999; Hronek, 2002). The risk management effort should be directed according to the severity of the risk. Bester (quoted by Saayman, 1993), stated that the severity of a risk should be quantifiable according to the following factors:

- The possibility of an incident or injury taking place.
- The frequency of incidents taking place.
- The degree of seriousness of incidents.
- Objective evaluation of reliable data such as records and reports of incidents as well as statistics.
- Subjective data gained through discussions with staff, consultants and participants.
- Evaluation of resources within the institution. These resources entail management and human resources, financial resources, facilities, equipment as well as demographic resources contributing to the successful management of risks. It could be evaluated accordingly:
 - The amount and age of equipment.
 - Well-trained, skilled and motivated staff.
 - Standard, cost and availability of programme methods and safety measures.
 - Prevention measures taken regarding facility sport grounds and other areas of risk.
 - The demographic area in which activities take place.
 - Management systems in place.

Two types of risks may be classified through the process of identification and evaluation, physical- and financial risks. Risks should be treated accordingly, because the type of risk could not replace the other though they are complementary.

2.3.1.3 Risk Treatment

The third and most essential step in the risk management process is risk treatment. Risks are treated in a manner that will keep its present status, reduce the potential of an incident, shift the risk to another person, organisation or insurance, or by cancelling or prohibit action or to protect against any incident. The treatment or control of a risk may be controlled through the following strategies: (Singh, 1999):

- Avoidance
- Retention
- Reduction
- Transference.

The selection of an applicable method should be based on the frequency and severity of the loss or incident. Kaizer (1986) outlined several guidelines for selecting a method for treatment of a risk. These guidelines are incorporated in Figure 2.3.

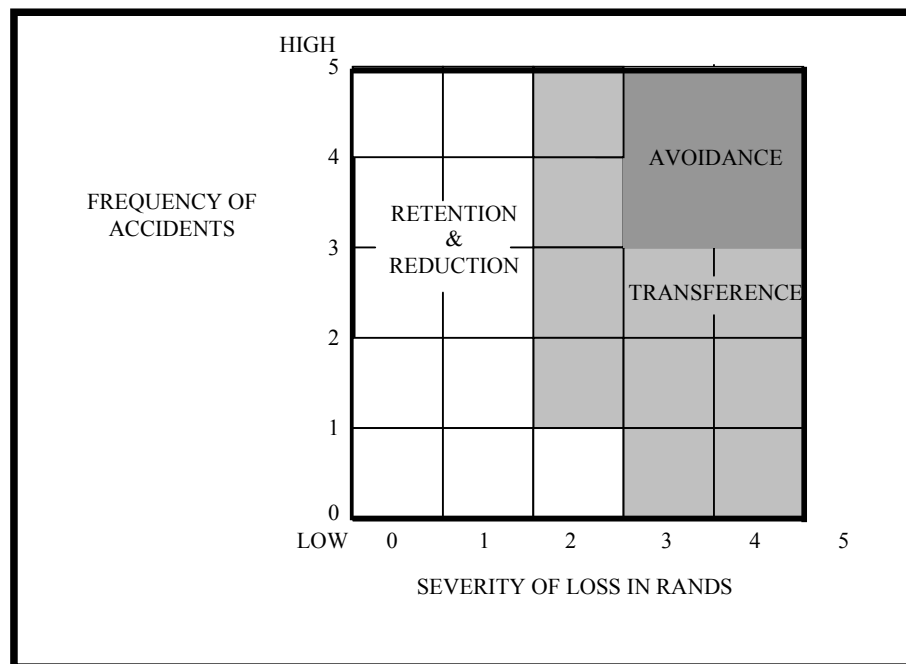


Figure 2.2 Risk Measures Matrix (Kaizer, 1986: 231)

Figure 2.3 emphasises that the higher the frequency of accidents and severity of loss in Rands, the greater the need to avoid the risk. A moderate frequency of accidents and a medium to high loss in Rands, should result in the transference of the risk. A high frequency of accidents and low loss in Rand should result in the retention or reduction of the risk.

The guidelines regarding the treatment of risks as stated above could be explained as follows (Epperson, 1986, Hronek, 2002):

- **Avoiding** the risk by stopping the activity or closing the facility for instance fencing a lake at a campsite to prevent learners from swimming in the lake.
- **Transferring** a risk. Shifting the responsibility from one party to another, for instance, by transferring the risk, taking out insurance, making the insurance company liable for injuries.
- Prevention or **reduction** of loss by taking action to reduce the risk. Implementing management procedures to reduce the possibility of loss including inspections, redesigning problem areas at facilities, and so forth. Frequent audits, inspection and maintenance are the critical parts of a risk management programme (Peterson, 2001). During these audits, the safety programme and operations should be reviewed to make sure they are effective and efficient with regard to the prevention of accidents. Records should also be examined (Hoffman, 1994).
- **Retention** of risk or taking no action because of the high costs of insurance. Insurance is a method of protection against risks that should be retained, but insurance companies would not continue to insure an organisation if claims for losses exceeded a certain percentage of the premium, for obvious reasons.

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The actions taken in treatment of a risks reflects the results of the evaluation process. After the process of identification, evaluation and treatment are completed, individuals must act to change the situation. Actions must be taken to implement reasonable treatment as soon as possible (Hronek, 2002).

2.3.1.4 Risk Programme Implementation

The final risk actions are implemented in a timely and effective manner. It takes place when something is repaired, changed, or constructed. It could also be in the form of policy change verbal warnings, brochures and other publications, signs, and mass media releases (Hronek, 2002). It is vital that such a programme should be implemented to reduce accidents, although accidents can still happen. The organisation responsible for sport and recreation activities should have a form in hand to report such accidents (Pastore, 1993). These incident and

accident reports should be kept on file for annual review and examination purposes (Hoffman, 1994).

Warning signs or notices that are easily understood and well placed are a way of communicating with participants about safety hazards, particularly when related to a specific area of the facility. These signs should be maintained at all times to ensure their effectiveness. Apart from warning signs, emergency numbers being displayed on a bulletin board near to the area, the media could also be used to spread risk-related information to participants (Mull et.al., 1997).

A last important aspect is that once the risk management programme has been written and policies and procedures developed, the manager should ensure that staff responsible for activities are mature, competent and well-trained enough to rely on them to follow the programme (Thompson, 1998).

2.4 CONCLUSION

This chapter aimed to give the reader a brief theoretical background on Risk Management within sport, recreation and physical education as well as its relation to the law, making professionals aware of the impact the law has on their daily operations. The whole issue of negligence is that a person should take reasonable care to prevent any cause of injury in order not to be held delictually liable for a wrongful action. This issue of negligence could be noted within the daily operations of the education and sport environment. Educators and sport and recreation practitioners as well as their organisations could be held delictually liable for any risk where a learner was injured while engaging in a physical activity under supervision, for instance by educators. If it could be proved that an educator acted in a negligent manner, not taking reasonable care or was in breach of duty of care, either by not being competent in supervising the sport activity or by acting in a manner below the standard of expected behaviour, the educator, or often the school, could be held delictually liable for the injury.

It is of utmost importance for these professionals to have a good understanding of their responsibilities and to develop a risk management programme in order to some extent prevent these risks and also to prevent lawsuits against themselves and their organisations.

CHAPTER 3

RESEARCH METHODOLOGY

3.1 INTRODUCTION

The researcher identified and outlined the main aim of the study in Chapter 1. In this study the researcher focused on risk management from a sport perspective as well as a legal perspective focusing on the delict theory in relation to education and sport in South Africa. This chapter will give a brief explanation of the research methods used to conduct this study.

3.2 STATING THE PROBLEM

The problem is thus to identify and assess current practices that are related to the management of school sport in order to recommend guidelines for policy, procedures and practices for risk management in sport at secondary schools in Gauteng.

3.3 AIM OF THE STUDY

The aim of the study is to:

- Describe general law principles, the law in education and sport as well as risk management,
- Investigate how sport risks in sport at schools are managed and what current policies, procedures and practices are in place,
- Assess the management of risks by sport managers in secondary schools in terms of risks, and
- Make recommendations for the management of risks in school sport.



3.4 METHODOLOGY

3.4.1 Methods used for Data gathering

This is an empirical study based on quantitative information on risks in school sport. Empirical studies investigate subjects and generate information on certain situations or determine standards and norms that could be used to compare situations. This could be done using a questionnaire as a research tool (De Wet, Monteith, Steyn & Venter, 1981; Mouton & Marais, 1992). A questionnaire observes data beyond the physical reach of the researcher and probes beneath the surface of the participant (Leedy, 1993). A questionnaire was used as the instrument to obtain primary data for this study.

Secondary data was obtained by the use of literature studies describing risk management and the law in sport and education as well as management of sport in secondary schools. National and international texts as well as previous research and current policies and circulars from the Department of Education on school sport were used to describe the above issues.



3.4.2 Sampling

The Gauteng Department of Education (GDE) provided the researcher with its data base on secondary schools in Gauteng that divided schools into five socio-economic levels, (Private schools, higher -, middle-, lower socio-economic level schools and schools in rural areas). The population of this study comprised 450 secondary schools. The approach was to sample a population of 100 schools from the listed schools using the stratified sampling method comprising 20 schools per socio-economic level. Demographic information regarding the schools was obtained by consultation with the GDE. The investigation included Government Secondary Schools and Subsidised Independent Secondary Schools in Gauteng and was restricted to the sport managers.

Due to an extremely low response rate in which only 10 questionnaires were returned, the researcher had, in the end, to rely on the convenience sampling method in order to increase the return rate of the questionnaires. The GDE in Northern Gauteng assisted in identifying another 50 schools in Pretoria (District D) and distributed the questionnaires to these schools. A school principal in Atteridgeville, Pretoria, assisted in distributing 10 questionnaires to the secondary schools in that area and a volunteer distributed another 10 questionnaires to other

schools in Pretoria that were not area specific. The outcome was still not satisfactory as only another 27 questionnaires were returned. In total 37 questionnaires were returned to the researcher. The researcher is of the opinion that although the number of respondents does not constitute a representative sample, the results obtained can provide meaningful insights with regard to the management of risks in sport.

The size of the sample might have been sufficient but the low response rate could be related to the methods used for distribution and the time given for the return of questionnaires. Posting of questionnaires was used as the first method of distribution. This seemed the most convenient method at that time as the researcher experienced difficulty to hand deliver the questionnaires because the schools were scattered throughout the Gauteng province. Another factor that might have had an impact on the response rate could be that the questions asked were directly related to legal issues in school sport and participants might not have wanted to involve themselves in legal issues.

3.4.3 Measuring Instruments

A questionnaire was developed by the researcher and validated by experts on sport law and research methodology. Statistical Consultation Services at Rand Afrikaans University (STATKON) was used to assist the researcher in validating the instrument. The instrument was used in the assessment of the sport manager, administrator or coach directly responsible for the physical activities at the school.

With regard to the aim of the study, it is necessary to gain various pieces of information from participants. It is only possible to gather this information if different methods of questioning are utilised in the instrument. These methods could be open-ended questions giving participants the opportunity to give their own meaning, close-ended questions to gather specific information and scaling of statements that were grouped under specific risk management aspects at secondary schools in order to measure the perceptions of the participants on these aspects.

In evaluating the sport manager, administrator or coach, the questionnaire was divided into two major categories, Part 1 (Demographic Information) and Part 2 (Assessment).

The categories and sub-categories were structured as follows:

Part 1: Demographic Information

- A. *School Details*
- B. *Details of coach / administrator*

Part 2: Assessment

- 1. *General legal responsibility*
 - A. Insurance
 - B. Sport Association Rules and Regulations
 - C. Standard of care
 - D. Transport
 - E. Supervision and instruction
- 2. *Facilities*
- 3. *Equipment*
- 4. *Legal aspects*
- 5. *Medical aspects*
 - A. Pre-season
 - B. In-season
 - C. Post-season
- 6. *Records and information on athletes*
 - A. Health records
 - B. Documents from parents



Part 1 consisted of close- and open-ended questions seeking demographic information on the school and more specifically of the coach/ administrator. This could be illustrated in Figure 3.1.

1. DEMOGRAPHIC INFORMATION

A. SCHOOL DETAILS

Please answer the following questions related to your school by ticking the appropriate block or by filling in the answer in the space provided.

Type of school: Public Private Independent

Location: Urban Suburban Rural

Dominant socio-economic status of learners: Private High-
 Middle- Lower- Rural

Figure 3.1 Example of Part 1 of Questionnaire

GENERAL LEGAL RESPONSIBILITY							
Insurance							
	Statements	Strongly disagree 1	Disagree 2	Neither agree or disagree 3	Agree 4	Strongly agree 5	N/A 6
1.	The school has a comprehensive insurance plan for sport.	1	2	3	4	5	6
2.	The school has a legal advisor for insurance.	1	2	3	4	5	6

Figure 3.2 Example of Part 2 of Questionnaire

Part 2 made use of the differential sliding scale checklist in assessing the specific aspects that might show an effect on injuries and other risks that might occur, as evident in fig. 3.2. Statements were scaled from 1- Strongly disagree to 5- Strongly agree allowing participants to choose the option that corresponded to their opinion.

The categories in Part 2 of the instrument were scaled according to the Likert scale checklist numbered from one to six (1-6). One (1) being strongly disagree to five (5) strongly agree and six (6) not applicable. Various statements were listed under each of these categories. Respondents were requested to examine the statements and to rate them individually according to the scale provided. The statement ratings were statistically analysed in order to obtain frequencies, averages and standard deviations.

3.4.4 Administration of measuring instruments

Questionnaires were posted to the sport managers, coaches or administrators of these schools accompanied by a covering letter explaining the purpose of the study. A period of one month was allowed for the participants to return the questionnaires in the envelopes provided. A tracking system was used to remind the schools to return the questionnaires. Anonymity was maintained at all stages as no participant was asked to reveal their name or the name of their schools and that the numbering of the questionnaires was only used as part of the tracking device. No personal visits were made to the schools because of time constraints.

3.4.5 Data capturing and editing

Two volunteers captured the data on an Excel spreadsheet. One volunteer captured the data into the spreadsheet whilst the other read the data and validated that the data was captured correctly. The researcher moderated the data by selecting ten questionnaires and cross-checked that the data was captured correctly.

3.4.6 Data analysis

Because of the small sample size, the researcher was obligated to utilise non-parametric statistical procedures and descriptive statistical methods to establish group differences and to generate nominal data.

With regard to descriptive statistics, the researcher relied on statistics describing centrality (means) and standard deviations of the data. The SPSS- 11.0 for Windows statistical package was utilised to analyse the data.

3.4.7 Validity and Reliability of Questionnaires

Validity describes the accuracy of the measurements made with the measuring instrument in that it measured what it was supposed to measure (Hollander, 2000).

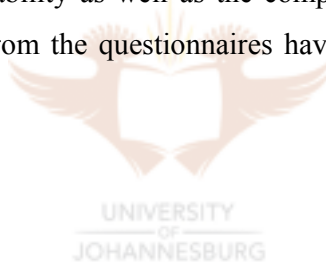
Validity of this study was insured in that STATKON and the supervisor screened the questionnaire. Thorough literature studies in chapter two insured that relevant aspects were covered in the questionnaire and that participants could give relevant and complete information with regard to the problem and aims of this study. Another manner used to insure validity was a pilot study conducted in September 2001 to test the instrument discussed above. A stratified convenient sample was used as a pilot study. Two (2) schools out of each socio-economic level, in total ten (10) schools, were used to test the instrument. The questionnaire was personally hand delivered at the schools after prior arrangements were made with the principals of the schools. The sport coaches or administrators were allowed two weeks to complete and return the questionnaire that was also personally collected from the schools.

The returned questionnaires were analysed and evaluated in October 2001. None of the participants identified any grammar, spelling or other mistakes in the questionnaire and the statements (comments) under each category and sub-category were clearly understood and required no adjustments. The questionnaires were found to be suitable for the final gathering of data. These methods used to test validity, allowed participants to give their perception on risk management of sport at secondary schools.

It was also important to establish if the instrument used was reliable. Reliability describes the accuracy in which measurements were taken in different situations or measured against other equivalent instruments (Hollander, 2000; Leedy, 1993). In this study, the instrument was not measured in different situations or against other instruments. The instrument relied on the perceptions of the participants at the specific time that they completed the questionnaire. One could assume that the reliability of the instrument was not essential for this study but the experience of the participants in the field of sport at secondary schools was crucial in determining their perception on the topic.

3.5 CONCLUSION

In order to establish if policies, procedures and practices for risk management in sport at secondary schools are in place, empirical research methods were discussed with regard to the study. The methods used for data gathering, sampling of participants, development of the questionnaires, validity and reliability as well as the completion of the questionnaires were discussed. The data gathered from the questionnaires have been analysed and the findings will be discussed in Chapter 4.



CHAPTER 4

DATA ANALYSIS AND FINDINGS

4.1 INTRODUCTION

The problem of this study was to *identify* and *assess* current practices related to the management of risks in school sport. The levels of assessment indicated by the average evaluation (mean) were used as an indicator of current risk management practices in secondary schools in Gauteng.

4.2 EVALUATING CURRENT RISK MANAGEMENT PRACTICES

This section evaluates the current risk management practices through descriptive statistical methods. The researcher focused on the mean values, indicating the average value of each question, scaled from 1- Strongly disagree to 5- Strongly agree, answered by the participants. The average mean for each section was then provided and described in accordance with the literature of the study. A positive orientation regarding the current risk management practices at schools was a mean of $\bar{x} \geq 3.5$. A negative orientation will be regarded as a mean of $\bar{x} < 3.5$.

4.2.1 General legal responsibility: Insurance

Table 4.1 Descriptive NPar test: Evaluating the current Risk Management practices with regard to Insurance

	Statements	N	Mean \bar{x}
V33	The school has a comprehensive insurance plan for sport.	37	2.4595
V34	The school has a legal advisor for insurance.	35	3.1143
V35	The coaches/administrators know the difference between the two basic types of insurance i.e. accident & liability insurance.	36	2.8333
V36	Volunteers for sport are covered by accident & liability insurance.	36	2.1944
V37	The monetary amounts of sport insurance cover are adequate.	36	2.1667
V38	The monetary amounts of sport insurance cover are kept up-to-date.	37	3.9730
	Average		2.77

Table 4.1 overall indicates a negative orientation of the participants towards current risk management practices regarding the general legal responsibility of schools' insurance with an average mean of $\bar{x} = 2.77$. All the variables (V33 – V37) with the exception of variable (V) V38 indicated a mean of $\bar{x} \leq 3.5$ that contributes to the negative orientation of the participants. The important variable is V37 with a mean of $x = 2.1667$ indicating that the essential amounts spent on insurance cover at the schools were not adequate for the needs for sport in schools regarding the nature of the activities. V38 on the other hand, shows a positive mean of $\bar{x} = 3.9730$ which indicates that although the essential amounts spent on insurance were not adequate, the monetary amounts of sport insurance cover were kept up-to-date.

As part of a risk management plan, it is important to treat a risk, either avoiding, retaining, reducing or transferring the risk. Transferring a risk means to shift the responsibility onto an insurance company. The negative orientation of the participants indicates that schools are not paying enough attention to their legal responsibility regarding insurance.

4.2.2 General legal responsibility: Sport association rules and regulations

Table 4.2 Descriptive NPar test: Evaluating the current Risk Management practices with regard to Sport Association Rules and Regulations

	Statements	N	Means \bar{x}
V39	Coaches/administrators are aware of USSASA rules governing sport participation.	37	4.2162
V40	Age requirements of USSASA are adhered to at the school.	37	4.6216
V41	Eligibility requirements of USSASA are adhered to at the school.	0	-
V42	Coaches/administrators are aware of sport association rules which are legally binding	0	-
V43	Coaches/administrators are aware of sport association rules which are recommendations.	37	4.2432
	Average		4.35

Table 4.2 shows a positive orientation by the participants towards the current risk management practices regarding sport association rules and regulations indicating an average mean of $\bar{x} = 4.35$ with the exception of variables V41 and V42 that did not apply to this test. All the responses are above $\bar{x} \geq 4$ with the highest being V40 indicating that schools adhere to USSASA's requirements, as the sport association for school sports, regarding the age of the learners when they participate in sport. The reason could be that USSASA ensures that they provide clear written rules for sport to schools and that they are communicated to schools.

4.2.3 General legal responsibility: Standard of care

Table 4.3 Descriptive NPar test: Evaluating the current Risk Management practices with regard to Standard of care

	Statements	N	Means \bar{x}
V44	Coaches/administrators realise that if they assign unqualified personnel to conduct an activity, they may be held liable.	37	3.9730
V45	Special supervision is provided for inexperienced and/or less qualified coaches.	37	3.7297
V46	Adequate supervision is provided during practice sessions.	36	3.9444
V47	Adequate supervision is provided during competitions.	37	4.4054
V48	Competent coaches/administrators are assigned to conduct and/supervise practice in the absence of the coach.	37	3.9730
V49	Coaches use proper coaching methods before intense participation or competition is permitted.	37	4.1622
	Average		4.01

The overall responses of the participants in Table 4.3 indicate a positive orientation regarding current risk management practices in schools ensuring that proper standard of care is taken with an average mean of $\bar{x} = 4.01$. The principal of a school is liable to see that reasonable care is taken to ensure the safety of educators and learners by ensuring the provision of competent staff, adequate material, proper systems and effective supervision (Elliot & Quinn, 1999).

The most important variables of Table 4.3 is V45 with the lowest mean of $\bar{x} = 3.7297$ and V47 with the highest mean of $\bar{x} = 4.4054$. This could mean that adequate supervision was provided during competitions and that they are well organized, but although V45 indicates a mean on the positive side, not enough attention was given to provide inexperienced and/ or less qualified coaches with special supervision. An educators duty to supervise stems from the duty of care and is based on the relationship between the plaintiff and the defendant (Merriman, 1993). It also refers to the educator acting *in loco parentis* providing supervision to the learner trying to prevent any hazardous situation a learner might find him/ herself in as in the case of *Thompson vs Seattle Public School District* (1990) (Sharp, 1990; Girvan &

Girvan, 1993). It is the duty of a principal to ensure the provision of competent staff, adequate material, proper systems and effective supervision. Specialised knowledge and certain skills are a prerequisite for the successful practicing of a profession, therefore a prospective employee (educator) should receive extensive and intensive training to be able to master the required skills (Oosthuizen, 1998).

4.2.4 General legal responsibility: Transport

Table 4.4 Descriptive NPar test: Evaluating the current Risk Management practices with regard to Transport

	Statements	N	Means \bar{x}
V50	Coaches/administrators are aware of the liabilities involved in allowing learners to travel to sport competitions in private vehicles.	37	4.2973
V51	School owned vehicles or licensed public carriers are used for transporting athletes at all times.	37	4.2973
V52	Coaches/administrators are aware of the liabilities involved in allowing learners to drive their own vehicles to games.	37	4.1351
V53	Coaches/administrators ensure that drivers of vehicles transporting athletes have a valid licence and appropriate insurance.	37	4.2703
V54	Coaches/administrators exercise prudent judgment when loading vehicles carrying athletes.	37	4.4324
V55	Coaches/administrators possess a PDP licence when driving kombis & buses transporting participants	37	4.3748
V56	Coaches/administrators ensure that vehicles used for transporting athletes are checked to assure that they are in good, safe working order.	37	4.4054
V57	A clearly written school policy exists relating to team members going to and returning from tournaments as a team.	37	4.0000
V58	Coaches/administrators adhere to the school policy in 8 above.	37	4.0541
	Average		4.24

The average mean orientation of $\bar{x} = 4.24$ as indicated in Table 4.4, on current risk management practices in schools towards the legal responsibility for transport is positive. This means that the sport managers were aware of their legal responsibility when transporting learners to and from practices and competitions. The responses of the variables lie very close to one another with the most important variables being V57 with the lowest mean of $\bar{x} = 4.0000$ and V54 with the highest mean of $\bar{x} = 4.4324$. Both are positive mean values and shows that positive risk management practices in schools are related to the use of transport to convey learners to practices and competitions.

Sport managers should take special care regarding their legal responsibility towards learners when transporting them to and from competitions and practices. An educator has a legal duty not to act negligently by not doing what a reasonable person would not do in the same situation and that he takes care that learners are transported safely. Principals on the other hand, could be held vicariously liable for the actions of the educator because of the employer-employee relationship that exists between the two parties. To prevent any legal actions the principal should not only ensure that qualified, skilled staff members are appointed, but also that parents of participants give a letter of consent to the school giving permission that the child may participate in the activity, practices and competitions. This letter of consent does not however protect the principal from legal action if proven that the educator acted negligently as in the case of *Minister of Education and Culture (House of Delegates) vs Azel* (1995). The National Road Traffic Act (93 of 1996) further states that a driver of a vehicle conveying people from one point to another, should be in possession of a PDP license.

4.2.5 General legal responsibility: Supervision and instruction

Table 4.5 Descriptive NPar test: Evaluating the current Risk Management practices with regard to supervision and instruction

	Statements	N	Means \bar{x}
V59	Administrators effectively supervise sport programmes as well as academic subjects.	37	4.0541
V60	Good written policies exist prohibiting unsupervised sport practice sessions.	37	3.7568
V61	The number of supervisors during practice and competitions is appropriate for the number of participants and kind of activity.	37	3.8378
V62	All sport contests involving physical contact are scheduled on the basis of fair matching with regard to age, size, skill, and so forth.	37	4.1892
V63	Adequate supervision is provided in specialized areas such as change rooms & weight rooms (gym/s).	37	4.0000
V64	Coaches are knowledgeable of the techniques required to perform each skill in the sport.	36	4.1111
V65	Coaches use sound, up-to-date methods to teach skills and techniques.	37	4.0541
V66	Coaches/administrators warn learners of possible injuries.	37	4.1081
V67	Coaches/administrators ensure that athletes conform to all rules.	37	4.3243
V68	Preventive measures are taken to protect spectators from injuries.	37	4.1351
V69	Measures are taken to control crowds at contests.	36	4.1944
	Average		4.06

The average orientation of the participants in Table 4.5 indicates a positive perception with a mean of $\bar{x} = 4.06$ towards current risk management practices in schools related to supervision and instruction. The most important variables are V60, V61 and V67. V60 reflects the lowest mean with $\bar{x} = 3.7568$ indicating that although $\bar{x} \geq 3.5$, the participants are either not confident enough, that good written policies exist prohibiting unsupervised sport practice sessions and in return could have an influence on V61 indicating a mean of $\bar{x} = 3.8378$ on the amount of supervision that is appropriate during practices and competitions in relation to the number of participants. The variable V67 indicates the highest mean of $\bar{x} = 4.3243$ showing

that sport managers ensure that participants conform to all rules as an important aspect of supervision and instruction. Supervision and instruction lies within the duty of care doctrine stating that a person should take reasonable care to avoid any acts that can result in injury or harm to another person. Duty of care at secondary schools includes the duty to ensure that proper safety measures are in place during physical activities. It is the duty of the educator to act *in loco parentis* ensuring proper supervision of and taking care of the learner against any hazards the learner might encounter.

4.2.6 Legal responsibility towards facilities

Table 4.6 Descriptive NPar test: Evaluating the current Risk Management practices with regard to facilities

	Statements	N	Means \bar{x}
V70	Coaches/administrators consider potential dangers to learners because of inadequate facilities.	37	4.2162
V71	Hazards around playing fields (wires, poles, holes, sharp corners, and so forth) are considered and protective padding or chevron tape is used.	37	4.0811
V72	Control is exercised over vehicles parking on the edge on the playing fields.	37	4.5135
V73	Potential hazards such as hard walls, slippery floors, glass windows, and so forth are attended to in order to prevent the possibility of injury.	37	4.3243
V74	Swimming pools, gymnastics areas and so forth are kept locked when not in use.	37	4.8108
V75	Periodic inspections related to maintenance of sport facilities are conducted and recorded.	37	4.0270
V76	A clear written policy identifies who is responsible for inspection and maintenance of safe sports facilities (indoors & outdoors).	37	3.9730
	Average		4.27

A sport manager should make sure that the premises are reasonably safe to allow learners to make use of the school's sport facilities. The overall indication is positive towards current

risk management practices in that the participants acknowledged their legal responsibility towards safe facilities with a mean of $\bar{x} = 4.27$. All the variables shown are important as all the means indicate that $\bar{x} \geq 3.5$ with the lowest variable being V76 with $\bar{x} = 3.9730$ indicating the existence of clear written policies identifying the responsible person for the inspection and maintenance of safe sport facilities. The highest variable is V74 indicating a mean value of $\bar{x} = 4.8108$ showing that sport managers acted responsibly and ensured that swimming pools, gymnastic areas and other hazardous sport areas were kept locked when not in use.

4.2.7 Legal responsibility towards equipment

Table 4.7 Descriptive NPar test: Evaluating the current Risk Management practices with regard to equipment

	Statements	N	Means \bar{x}
V77	Coaches/administrators follow proper methods (school policy) when purchasing equipment.	37	4.3514
V78	Coaches/administrators ensure that protective and playing equipment is kept in good condition.	37	4.3243
V79	Coaches/administrators keep up-to-date equipment and inventory records.	37	3.9189
V80	Coaches/administrators are aware that they are liable if rules that specify the use of protective equipment such as helmets, pads, mouthpieces, and so forth, are not enforced.	37	3.9189
V81	Coaches/administrators regularly examine equipment used in contests such as bats, sticks, racquets, etc. to ensure that they are free from defects that could cause injury.	37	3.8919
V82	Provisions are made for the proper fitting of protective equipment.	37	3.8919
V83	Movable equipment is designed in such a way that it cannot be tipped over.	37	3.9730
V84	Coaches/administrators are aware that an athlete is not responsible for knowing about necessary kinds of protective equipment needed or whether equipment is properly fitted or in a safe condition.	37	3.6757
V85	Equipment is securely and safely stored in a store room.	37	4.2432
	Average		4.01

The overall indication towards the current risk management practices regarding the legal responsibility ensuring that equipment is properly managed and maintained shows a mean of $\bar{x} = 4.01$. The most important variables is V84 with the lowest mean of $\bar{x} = 3.6757$ and V77 with the highest mean of $\bar{x} = 4.3514$. The reason for V84 being low might be that the participants are not confident or might be a bit unsure that athletes are not responsible for knowing the necessary kinds of protective equipment needed or whether the equipment is properly fitted on in a safe condition. V77 shows a definite positive indication that proper purchasing methods are used when equipment is purchased for sport at the schools. As it is the sport manager's duty to ensure a safe environment for the learner to practice his/ her sport in, it is the legal duty of the sport manager to ensure that equipment is in a proper working condition ensuring that it cannot cause any harm to the learner if used in the correct manner. Learners should be informed of the correct use of the equipment. The sport manager should ensure that equipment is managed and maintained at all times.

4.2.8 Responsibility towards legal aspects

Table 4.8 Descriptive NPar test: Evaluating the current Risk Management practices with regard to Legal aspects

	Statements	N	Means \bar{x}
V86	Coaches/administrators know what constitutes liability.	37	3.4324
V87	Coaches/administrators understand the concept of negligence.	37	3.8378
V88	Coaches/administrators know the proper procedures to be taken when an injury occurs.	37	3.7568
V89	Coaches/administrators employ reasonable and prudent conduct.	37	4.1622
V90	Coaches/administrators know how to avoid damage suits through preventive measures.	37	3.6757
V91	Coaches/administrators require written consent forms from parents before a learner may turn out for a sport.	37	3.8649
V92	Coaches/administrators know and understand the SA Schools Act.	37	3.5405
	Average		3.74

Table 4.8 evaluates the current risk management practices in schools with regard to legal aspect assessing the sport manager on this issue. The overall average mean of $\bar{x} = 3.74$ indicates a positive reflection on the perception of the participants towards legal aspects. The low positive mean value are however a concern for the researcher in that the reason for this value could be that the sport managers are not completely confident that these practices are adhered to at the schools. The most important variables are V86 and V89. V86 indicates a negative mean of $\bar{x} = 3.4324$ implying that all the participants are not completely sure what constitutes liability. V89 on the other hand, indicates a positive mean of $\bar{x} = 4.1622$ showing that sport managers do employ reasonable and prudent conduct. Risk management is necessary for the survival of sport service providers such as schools as it offers a method to provide a quality experience in a safe environment and safeguards sport managers and school managements from legal litigation. Since injuries or any other harm caused to a learner could result in serious legal implications, it is necessary for the sport manager to be informed on how the litigation process works taking safety measures into consideration.

4.2.9 Legal responsibility towards medical aspects: Pre-season

Table 4.9 Descriptive NPar test: Evaluating the current Risk Management practices with regard to medical aspects: Pre-season

	Statements	N	Means \bar{x}
V93	All coaches/administrators refrain from administering dietary supplements and performance-enhancing substances.	37	3.9730
V94	Coaches/administrators liaise with medical personnel regarding prevention of sport injuries.	37	3.5405
V95	All coaches/administrators know the health status of the participants in their sport.	37	3.5676
V96	All coaches/administrators have the ability to recognise symptoms that indicate injury.	37	3.5405
V97	All coaches/administrators keep accurate records of injuries occurring during practices and competitions.	37	3.0811
V98	All coaches/administrators have proper and up-to-date first aid training.	37	2.5676
V99	The school has suitable first aid equipment which is readily accessible in emergencies	37	3.8649
	Average		3.44

In Table 4.9 the average mean value of $\bar{x} = 3.44$ is a negative orientation towards the current risk management practices related to medical aspects during the pre-season in school sport. The most important variables are V93 with the highest mean value of $\bar{x} = 3.9730$, V97 with a mean value of $\bar{x} = 3.0811$ and V98 with the lowest mean value of $\bar{x} = 2.5676$. V93 indicates a positive orientation on the perception of the participants towards sport managers refraining from administering dietary supplements and performance-enhancing substances. While the other variables also have a positive orientation towards medical aspects in school sport, V97 and V98 is of concern in that it indicates a negative orientation of the participants towards the keeping of records of injuries occurring during practices and competitions and that the sport managers do not receive proper and up-to-date first-aid training. It is the responsibility of the principal to ensure the provision of competent staff, in this case the sport manager, due to the fact that if a sport manager is not competent to do the work and in the process causes harm to another person, the principal as the employer is held liable for the wrongdoing of that sport manager. Specialised knowledge and certain skills are a prerequisite for the successful practising of a profession, therefore a prospective employee, in this case a sport manager, should receive extensive and intensive training to be able to master the required skills (Oosthuizen, 1998). For the purpose of this section, the focus is on the specialised knowledge on the legal responsibility of a sport manager regarding medical aspects.

4.2.10 Legal responsibility towards medical aspects: In-season

Table 4.10 Descriptive NPar test: Evaluating the current Risk Management practices with regard to medical aspects: In-season

	Statements	N	Means \bar{x}
V100	All coaches/administrators use reasonable and prudent judgement in emergency situations.	37	3.8919
V101	All coaches/administrators know when to apply first aid and when to seek medical aid.	37	4.6486
V102	Coaches/administrators are knowledgeable about proper post injury care and rehabilitation.	37	3.1622
V103	Coaches/administrators require written permission by a doctor for an injured athlete to report back for competition.	37	3.3514
V104	Coaches/administrators have established training rules that are enforced.	37	3.3784
V105	Coaches/administrators are competent at training and conditioning athletes throughout a season (retaining fitness, avoiding staleness, peaking, and so forth)	37	3.4865
V106	There is ready access to a telephone at all times.	37	3.8649
	Average		3.67

Table 4.10 indicates an overall positive orientation towards the current risk management practices of medical aspects during a sport season. The overall mean value is $\bar{x} = 3.67$, indicating that sport managers took care of the medical aspects during a season. The important variables for this table are V101 and V102. V101 has a positive orientation towards the application of first-aid and when to seek medical aid if a learner sustains injuries as the mean value indicates a positive value of $\bar{x} = 4.6486$. It is no contradiction with the negative orientation regarding first aid training of V98 in Table 4.9, as sport managers might not have the proper training to apply first-aid but they know when to seek medical help and to apply first-aid. V102 indicates a negative orientation of $\bar{x} = 3.1622$ towards post injury care and rehabilitation of an injured athlete that might be the result of the lack of proper training in this regard. Negligence is an important delict in modern law and could be described as the breach of legal duty to take care with result that harm is caused to the plaintiff and aims to

protect people against personal injury, harm to property and economic loss (Collins, 1998; Elliott & Quinn, 1999). By taking preventative measures by ensuring that sport managers are informed of their duty regarding medical aspects, they avoid acting negligently.

4.2.11 Legal responsibility towards Medical aspects: Post-season

Table 4.11 Descriptive NPar test: Evaluating the current Risk Management practices with regard to medical aspects: Post-season

	Statements	N	Means \bar{x}
V107	Coaches/administrators ensure that athletes maintain their fitness	37	3.3243
V108	Participants are trained i.r.o. what to do, and what NOT to do when injuries occur.	37	3.3243
	Average		3.32

Table 4.11 indicates a negative orientation of the participants towards the current risk management practices related to medical aspects in the post-season of sport participation at schools. The average mean for the table is $\bar{x} = 3.32$ indicating that sport managers do not ensure that athletes maintain their fitness after the sport season and that they do not provide training to the participants to know what to do and what not to do when injuries occur.

4.2.12 Legal responsibility towards Records and information on athletes: Health records

Table 4.12 Descriptive NPar test: Evaluating the current Risk Management practices with regard to records and information on athletes

	Statements	N	Means \bar{x}
V109	Pre-season physical examination data are kept on athletes.	37	2.8649
V110	Accurate records of injuries occurring during practices and contests are kept on athletes.	37	2.7838
V111	Written records on all medical treatment given to athletes are kept on file.	37	2.8378
V112	Written permission by a doctor, which allows an injured athlete to re-enter competition, is kept on file.	37	3.0541
	Average		2.88

Table 4.12 indicates an overall negative orientation with a mean of $\bar{x} = 2.88$ of the participants towards the current risk management practices in schools in obtaining information on participants and keeping records of the participants. The averages of all the variables are $\bar{x} < 3.5$ with the highest mean value of V112 $\bar{x} = 3.0541$ indicating that no pre-season physical examination data were kept on athletes, no accurate records of injuries occurring during practices and competitions were kept, no records were kept on all medical treatment given to athletes and that no written permission by a doctor allowing an injured athlete back into competition were kept on file. This might be the result of the lack of knowledge on the part of the participants or because these practices were not yet in place in secondary schools. It is important for the sport manager to obtain information on the learners, especially with regard to any medical condition that participants might have, in order to manage learners in terms of participating in any practices or competitions if this could result in any harm done to that learner as in the example of Thabang M'bele (refer to chapter 1 p5). This information should be kept on record for future reference.

4.2.13 Legal responsibility towards Records and information on athletes: Documents from parents

Table 4.13 Descriptive NPar test: Evaluating the current Risk Management practices with regard to Records and Information on athletes: Documents from parents

	Statements	N	Means \bar{x}
V113	A written letter of consent from parents that allows a learner to participate in sport is kept on file.	37	3.4865
V114	A copy of the athlete's birth certificate is kept on file to verify birth date.	37	4.1622
V115	Letters from parents, requesting that athletes return from athletic trips by means other than official transport are required and kept on file.	37	3.4595
	Average		3.69

The average orientation on current risk management practices towards the keeping of records and obtaining information from the parents with regard to the athletes in Table 4.13 indicates a positive mean value of $\bar{x} = 3.69$. Although it is a low mean value, it is contradictory with the results of Table 4.12. The reason might be that the sport managers do obtain information on the athletes from the parents that are kept on record, but they do not find it important enough to keep records on the information they themselves obtained previously regarding the athletes, during or after the sport season. The result could be the lack of responsibility on behalf of the sport manager in taking interest in the athlete ensuring that proper care is taken. All the variables, if rounded off, indicate a positive mean value that it is important that sport managers obtain written letters of consent from the parents as in the case of *Minister of Education and Culture (House of Delegates) vs Azel (1995)*, they do keep copies of the athlete's birth certificate on file to verify birth-dates. Letters from parents are obtained if learners wish to make use of transport that is provided for them other than the official transport.

4.3 CONCLUSION

In evaluating current risk management practices through descriptive statistical methods the conclusion could be reached that sport managers in general are aware of their legal responsibility towards participants in sport and that there is a perceived need to enhance certain legal liability aspects at secondary schools. Recommendations will be made in Chapter 5 towards the improvement of these aspects.



CHAPTER 5

CONCLUSION AND RECOMMENDATIONS

5.1 INTRODUCTION

With the current system of governance in education in South Africa the teaching profession should realise its legal duties to learners and the risks educators are exposed to. Educators should have a clear understanding as to what a safe school environment is. Educators should take special care of learners by trying to prevent any injury that might occur by assuring proper supervision is taken and also by contributing to the establishment of risk management plans. This ensures that policies and procedures are made clear to participants and educators, contributing to the climate of success at a school.

Gaining and maintaining a professional standard of care for risk management at schools is important for participants, educators and school management in order to prevent injuries in the gym and on the playing fields. In order to establish if risk management plans are in place and that a professional standard of care is taken, the researcher aimed at identifying and accessing current practices in secondary schools in Gauteng related to the management of school sport. The results will be used to recommend guidelines for policy, procedures and practices for risk management for sport at secondary schools.

5.2 THEORETICAL RESEARCH

To succeed in the aim of this study, a theoretical background was provided on risk management within sport and physical education in secondary schools, as well as its relationship with the law, more specifically law in sport. Elements of the Risk Management Programme have been discussed to assist sport managers in sport and physical education in their management of risks within their daily operations. In an attempt to make sport managers in sport and physical education aware of the impact the law has on their daily operations, they have also been informed of the legal aspects from a sport perspective.

5.3 EMPIRICAL RESEARCH

This was empirical study based on quantitative information on risks in school sport using a questionnaire as a research tool. The questionnaire was used to *identify* and *assess* current practices related to the management of risks in school sport. The levels of assessment indicated by the average evaluation (mean) will be used as an indicator of risk management.

In summary it has been established that sport managers:

1. are aware of the general legal liability of the schools with regard to insurance but were either not well informed about the insurance cover the schools have or there is a lack of coverage at the schools
2. perceive that schools were aware of USSASA rules and regulations and that the schools adhere to these rules and regulations
3. perceive that the standard of care taken by the schools and the sport manager were satisfactory and that the legal responsibility at schools were realised in order to take proper care of learners participating in sport
4. are aware of their responsibility to transport learners to and from sport competitions and tournaments and to be in possession of a PDP licence when transporting the learners. They also adhere to school policies relating to transportation of learners to and from competitions
5. are properly skilled in their respective sports and give proper instructions to learners with regard to these sports in order to take preventative measures to protect the learners from injury. They also make sure that proper supervision takes place in the gym's cloakrooms and during practices or competitions. The sport managers, coaches or administrators were obliged to make sure that proper supervision took place in accordance with written policies that exist prohibiting unsupervised sport practice sessions.
6. perceive that facilities were frequently inspected and maintained in order to ensure it hazard free facilities for the learners to make use of
7. perceive that equipment is frequently inspected and maintained in order to make it is hazard free for the learners to make use of and that it is safely stored in a storeroom whilst not in use.

8. the participants show a positive perception towards the legal aspects involved in sport at secondary schools. It could, however, be that there were aspects that could be clarified for them in order to fulfill their legal responsibility.
9. to some extent took care of the medical aspects of participants during the pre-season but that there were a lack in proper first aid training and the keeping of records of injuries occurring during practices and competitions.
10. are taking care of the medical aspects during season. They knew when to apply first aid but were not totally equipped to take care of the medical aspects.
11. are not always sure if athletes' fitness was maintained after the sport season and that the participants knew what to do and what not to do when injuries occur.
12. did not ensure that records were kept on the medical or health conditions of the participants and they also do not always require written permission from doctors stating that an injured athlete could re-enter a competition. They do not adhere to their legal responsibility.
13. are unsure if documentation and information on the learners, that should be required or requested from parents, were kept on file.

5.4 SHORTCOMINGS OF STUDIES

The study provides valuable information to those interested in managing risks in sport at secondary schools. There are however, shortcomings in the study that prevented the researcher to provide more accurate information. The main aspect was the low response rate to the questionnaire. Only 37 participants responded out of 170 questionnaires that were distributed in Gauteng. The findings are based on a 22% response rate that might not be representative of all secondary schools in Gauteng. The low response rate could be the result of the methods used for distribution or that sport managers, coaches or administrators do not want to involve themselves in legal issues in sport at secondary schools.

5.5 GENERAL CONCLUSIONS AND RECOMMENDATIONS

According to the results achieved in this study, the following recommendations could be made for future risk management planning and for further research in sports law.

Sport managers involved in sport and physical education should:

1. receive information and training on insurance cover and plans for schools covering accidents and liability.
2. receive information from legal advisors for insurance at their respective schools.
3. be made aware and receive training on the legal aspects at secondary schools in order to fulfil their legal responsibility.
4. receive proper first-aid training in order to take care of medical aspects during a season.
5. receive information and training on the procedures that have to be taken when an injury occurs and how to liaise with medical staff.
6. receive training on and ensure that the athletes' fitness is maintained after the sport season.
7. receive information and training on post-injury care and rehabilitation.
8. ensure that athletes are informed on how to take care of injuries.
9. be made aware of their responsibility to keep records on the medical or health conditions of participants.
10. require written permission from doctors stating that an injured athlete could re-enter a competition.
11. require documentation and information on the learners and ensure that it is kept on file.
12. enforce established training rules.

Further recommendations:

1. The Gauteng Department of Education should motivate educators to take part in research projects related to risk management and sport law.
2. The Department of Education, South African Sports Commission, Department of Sport and Recreation and USSASA should work together in developing policies and guidelines for risk management in sport for secondary schools.

3. Government should amend Acts related to school sport adding paragraphs on the participation in school sport and the legal liability of educators and school management.
4. Educators should be made aware of and receive training on legal aspects related to sport in secondary schools.
5. If educators feel uncertain about any legal issue, they should seek expert legal advice and not rely on the contents of this study as being authoritative.
6. Further research should extend the sample to include more secondary schools in the various socio-economic levels as this investigation was limited with a response rate of only 22%.
7. Further research could be executed in the other provinces in South Africa to identify and assess current practices in secondary schools using the same instrument.
8. The statistics could be used to establish if the sport manager's involvement as both permanent or voluntary staff have an influence on their general legal responsibilities.
9. The statistics could be used to establish if the number of learners at a school has an influence on the general legal responsibilities of sport managers, coaches or administrators.
10. The theoretical and empirical research results could be used to develop training programmes for educators at secondary schools.
11. Secondary schools and organisations should assign knowledgeable and competent managers, coaches or administrators to have the responsibility to initiate and co-ordinate the development of risk management plans for sport and physical activities. The managers concerned should also be responsible for the development of specific policies regarding safety precautions such as transportation, insurance, emergency accident plans, supervision and instruction and the maintenance of records.

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ANNEXURES

