

CHAPTER TWO

REVIEW OF LITERATURE

2.1 INTRODUCTION

The purpose of this chapter is to present a background of the seriousness of legal liability problems associated with tertiary sport programmes; to provide a review of the legal principles associated with sport law; and to provide a brief review of studies related to this study in content and methodology.

The author attempted to summarise previous research and to critically review their results and conclusions by comparing them to the writings of recognised sport law experts and commentators. This process assisted in determining what studies had been already completed in the focus area and to what extent the discipline had developed abroad and locally.

The preliminary literature search also served to determine that there was no study of a similar nature being undertaken locally in the field of sport and leisure management sciences. The review also included accounts of research that are allied to the problem, although they were somewhat peripheral in nature. This assisted the researcher to place the current investigation in the proper context.

There are a number of reasons why an investigation of safety in sport in South Africa is relevant and imperative. In summary, these are as follows:

- (i) The country has adopted a new constitution (Act 108 of 1996) which regulates all social activities, including sport.
- (ii) The bill of rights enshrines the rights of all people in the country.
- (iii) The re-entry of the country into the international sports arena. Players, management and spectators have to be aware of legal issues and responsibilities.

- (iv) There is a growing interest in the academic study of the legal regulation of sport (Gardiner et al., 1998).
- (v) “Sports Law” or “Sport and the Law” has now arrived as a legitimate legal subject in Britain, United States of America, Canada, Australia, New Zealand and South Africa. As from 1999 a module on Sports Law will be offered as part of the LLB. Degree at the University of Pretoria and as part of the undergraduate program in Sport Science at the University of Durban-Westville.
- (vi) There is increasing importance on the role of law in contemporary sport and a growing body of statutory and case law specific to sport. Reference has already been made in chapter one to the South African Sports Commission Act (Act No. 109 of 1998) and the National Sport and Recreation Act (Act No. 110 of 1998).

2.2 REVIEW OF LITERATURE

Van der Merwe (1975) conducted a study on “precautionary measures that should be taken by teachers of Physical Education in the prevention of injuries.” The study clarified the legal liability of the Physical Education teacher, particularly with regard to gymnastics lessons.

Prior to this investigation there was no documented research on the topic in the country. However, there existed Education Department circulars that gave directions to teachers of the subject. The precise methodology used in the study was not outlined, apart from the fact that it “was based on self-observation through self-participation.” A questionnaire was used to elicit information on accidents and injuries resulting from Physical Education activities. The study sample and sampling procedure were not described, but was delimited to schools in the Free State Province. Van der Merwe provides a valuable entry point in an investigation of the field of sport law in South Africa. However, his research is contextually limited in that it confines itself to legal principles that apply to the subject of Physical Education as it is taught in schools.

In this investigation the scope of the study will be extended to include physical education, sport and recreational activities. Tertiary educational institutions will be sampled because it is felt that many more relevant legal principles would be applicable to sport at this level. Also, because of adult participation, variety of programmes, national and international tours and professional management, tertiary sport more closely resembles community sport, thus allowing for generalizations to be made where similar circumstances exist.

The Human Sciences Research Council (H.S.R.C.) completed a national sports investigation in 1980 (H.S.R.C.,1980). The law committee had been briefed to conduct a jurisprudential investigation into sports legislation. Report number one was entitled: “The Report of the Law Committee on Legislation hampering the normalization of Sports Relations in the Republic of South Africa.” It can therefore be concluded that this study was narrowed in focus to one problem area which centered around discriminatory legislation and other official enactments and decisions which hampered the normalization of sporting relations and the achievement of autonomy in sport. Further, the investigation was conducted only at national level. Provincial and municipal legislation and enactments and their impact on sport were not researched (H.S.R.C.,1980: Report No. 1).

Relevant legislation, ordinances, proclamations, policy statements, official documents, parliamentary and senate reports, congress reports, official circulars, press and research reports, books and other relevant information sources were scrutinized.

Interviews were held with senior officials of the then Department of National Education (Branch: Sport Advancement), the then Department of Cooperation and Development, national sporting bodies and persons and institutions (H.S.R.C., 1980).

The study was delimited to an analysis of, and investigation into four acts of parliament, which formed the major obstacles to the normalization of sporting relations. These acts were as follows:

- (i) **The Group Areas Act**, No.36 of 1966, as amended;
- (ii) **The Liquor Act**, No. 87 of 1977, as amended;
- (iii) **The Reservation of Separate Amenities Act**, No. 49 of 1953, as amended;
- (iii) **The Blacks (Urban Areas) Consolidation Act**, No.25 of 1945, as amended.

The following concepts were dealt with:

- the right to participate in sport
- discrimination in sport
- sporting autonomy
- the relation between sport and politics
- legislation which places curbs on sport
- sports policy
- multi-nationalism in sport
- the normalization of sport and sporting relations
- basic rules of interpretation of statutes.

(H.S.R.C., 1980).

Based on findings in the aforementioned areas, recommendations were made. The major recommendation was that the state should not use sport as a political instrument to justify the ideology of apartheid.

Tempelhoff (1983) conducted a study on sport as a recreational activity at South African English medium universities. The purpose was to ascertain the strengths and weaknesses in administrative principles at these institutions. The author had adopted the following procedures:

- (i) documenting the contribution of sport to the holistic development of the individual
- (ii) tracing the historical development of universities and the role of sport in these institutions
- (iii) determining what the sports management policies and practices were in selected Afrikaans medium and English medium universities.

The field of sport safety and risk management was only investigated in respect of insurances, transport, indemnities and general safety. The body of knowledge in this field has developed significantly over the past sixteen years since the completion of this study. Further, the study did not focus on the legal bases upon which sport is managed. The era in which the study was undertaken and the sample used has little relevance in post-apartheid South Africa. This is so because of constitutional changes that affect the way in which both universities and sport function today. Also, universities today do not compete among themselves in tertiary sport at national and international levels. Colleges of Education and Technikons also belong to the same sport union as universities do, namely South African Student Sports Union (SASSU). As a consequence, universities and technikons will comprise the present study sample.

Parmanand (1987) published the most comprehensive investigation to-date in South Africa. His research focus was sport injuries in the Civil Law. The methodology involved library research into two of the main sources of law in any country, viz legislation and case law. Constitutional issues in sport arising from human rights were not included in this study.

Parmanand's study established that there was a dearth of sports injury litigation amongst participants in South Africa due to a number of factors, particularly the following:

- (i) The strong feeling of camaraderie amongst athletes, their adherence to the macho-man syndrome, and their ill-founded belief that "cowboys don't cry".
- (ii) The belief that violence is part of the game dissuades players from even contemplating legal action.
- (iii) It is simply not sporting to seek judicial relief.

(Parmanand, 1987)

He found that South Africa did not have a body of sport law. In the few cases that had been presented to the courts, decisions were based mainly upon ordinary common law

principles relating to negligence. He also criticized the local courts for depending on Anglo American cases as persuasive authority. He found that the several problems that plagued this field of law, in most countries, arose from the judges and juries who tried strictly to interpret and manipulate laws which had evolved without the problem of sport injury litigation in mind. His study thus aimed to add to the body of knowledge of sports law proper.

Parmanand's approach was to focus on the consent (*volenti non fit iniuria*) principle which he found received the widest respect and acceptance internationally. The investigation primarily considered the following aspects:

- (i) injuries to participants inter-se;
- (ii) injuries between participants and spectators.

A major objective was "to identify those situations occasioning delictual liability for a sports injury received and to make recommendations to promote more safety in sport." The liability of coaches and instructors for improper instruction was very briefly discussed, while contractual issues and product liability for defective equipment were excluded (Parmanand, 1987).

A particular strength of the foregoing study was the fact that the researcher viewed injuries in sport and the South African positive law in a historical perspective. The *volenti* principle was traced in Roman Law, Canon Law, Roman Dutch Law and South African Case Law. A comparative view of sport injury litigation and the *volenti* defence was provided across the U.S.A., Canada, England, Scotland, Australia and New Zealand. The study also included a valuable section on evaluation, conclusions and recommendations to promote safety in sport.

The Teachers' Federal Council (1990) published a position paper titled, "The Juridical Implications of Sport Injuries." This was submitted to the Department of Education and Culture for consideration, and the Directorate: Legal Services had agreed with the validity of the relevant legal principles. The purpose of the publication was to stress the particular obligation of sports related injury prevention among the youth. Another aim

was to enlighten and advise educators about the legal regulation of education, in particular physical education and school sport.

The increased violence in sport was highlighted. A distinction was made between intentional violence, outside the rules of the game and injuries caused by unintentional violence, within the normal course of the game, played according to the rules. It was emphasized that the sports injuries were potentially the subject of both civil and criminal suits.

According to the Federal Council's (1990) investigation, the two most important aspects were: (i) **negligence**; and (ii) **incompetence**. The formal sources of the law of education were identified as legislation, judicial precedent (case law) and common law. The importance of subordinate legislation in the form of departmental orders, circulars, manuals and other rules was outlined (Teachers' Federal Council, 1990). The investigation revealed that complete safety measures were prescribed and that it was a requirement for each school to have a clear policy regarding safety. It was also required that an efficient safety program would provide for the execution of such policy in all potentially dangerous situations. Specific reference was made to the most common dangers occurring during:

- the transport of pupils
- injuries on the school grounds, the sports fields, in the swimming pool, and the physical education class.

The issue of the requirement of "competent teachers" was clarified by reference to appropriate case law. Relevant case law (*Knouws v Administrator*, Cape, 1981) was quoted to confirm the strict duty of school heads and educators to take precautionary measures to avoid injuries and accidents in schools. The principle of **negligence** was discussed, as a prerequisite for liability. Ignorance regarding instructions and lack of skill on the part of educators was also explained. The principles of **consent** and **vicarious liability** of the employer were also elucidated.

This investigation has relevance to the present study in that many common legal principles were highlighted and emphasized upon as legal duties of personnel involved in physical education and sports activities. It explained and clarified the cardinal issues involved in legal liability in the South African context by referring to appropriate South African legal authorities and case law. However, in view of the contextual limitation, the author of this study intended to investigate the situation in the wider context of recreation and sport at tertiary institutions. The reasons for selecting tertiary institutions have already been discussed.

In 1991, the then **South African Association for Recreation and Tourism (S.A.A.R.T.)** was responsible for organising a symposium on Recreation, Sport and the Law at the University of Pretoria. This was the first occasion where the topic was professionally addressed. A collection of twelve papers, each covering a different aspect of the topic, comprised the report of the proceedings. These papers will be initially reviewed individually, and summative comments will be based on the entire proceedings (SAASSPER, 1991).

Scott (In SAASSPER, 1991) delivered a research paper on the topic “Knowledge of the Law: The real value for the recreation and sport practitioner.” In introducing and defining the concept of law, he established the rationale for accepting the law as a social phenomenon embracing almost all human activity. He demonstrated that the law was applicable to all forms of recreation and sport. The researcher concluded that a definite body of recreation and sport law did exist, but that such a body had not then been widely recognised in South Africa.

The researcher discussed the four main sources of law. The purpose was to arouse an interest in this latent branch of law, and to provide information that would have been of practical value. Scott identified the need for systematic study and research in this applied field. He believed that the need was not to train and equip recreation practitioners to become lawyers, but to create a culture wherein the awareness existed that “legal norms

should always be heeded when embarking on any activity in the field of sport and recreation”(Scott, In SAASSPER, 1991:5).

The author suggested ways in which this need should be addressed, and how South African law could be adapted to “serve the recreation and sporting community fruitfully”(Scott, In SAASSPER, 1991:5).

Viljoen (In SAASSPER, 1991) presented a paper on “Sport and Human Rights or Playing Ball the Constitutional Way.” He defined human rights and explained how it is intertwined with the real world of sport. He discussed the connection of human rights to politics in society and clearly showed the inextricable link between sport and politics in South Africa during apartheid rule.

The researcher also discussed the influence of human rights in society, how human rights are enforced in individual states, what the prospects were of South Africa getting a Bill of Rights in the future. He elaborated on how a South African Bill of Rights would affect sport, sport administration and players. The researcher concluded that the fields or examples were not limited. Many of the fundamental rights dealt with in the Bill of Rights could be invoked and applied to sport. He also expected policies being formulated in the future to address the discrimination of the past.

Potgieter (In SAASSPER, 1991) delivered a paper on “Negligence: When Supervising, Coaching or Organising Meetings.” He discussed the possible legal liability of supervisors, coaches and organisers of sport meetings for their negligent acts or omissions. The intentional or negligent behaviour of participants in sport and recreational activities were excluded.

Central to the discussion was the doctrine of “the reasonable man.” He covered the two legs on which the test for negligence rests. The investigator emphasised the fact that “a person who by his negligent or careless behaviour causes damage to another may be liable to compensate such loss. This principle also applies to supervisors, coaches and

organisers of sports meetings; the fact that they are participating in sport does not protect them against liability” (Potgieter, In SAASSPER, 1991:1).

Facilities and organisation, instruction and supervision, and medical care were the three areas covered as the coach or supervisor’s responsibility. Also discussed was the responsibility of organisers or promoters of sports or recreational events to ensure the safety of participants and spectators. Relevant South African and foreign case law were referred to. The researcher concluded that South Africa’s imminent re-entry into the arena of international sport would provide a powerful stimulus to South African sport and recreational activities. He warned that because of the resultant increase in participation and interest in sport and recreation all people involved should not forego reasonable care and circumspection. He urged that haste and impatience in sport and recreation be kept under tight control to prevent or reduce injuries (Potgieter, In SAASSPER, 1991).

Neethling (In SAASSPER, 1991) investigated “Aspects of consent to injury and indemnity agreements.” He explained the “*volenti non fit iniuria*” principle, the characteristics of consent and requirements for valid consent. The differences between an indemnity agreement and consent to injury were discussed. Important principles emanating from indemnity agreements that are very common in the area of school sporting and recreational activities were identified and analysed. Relevant case law was referred to. Neethling’s conclusion was that the application of legal principles concerning consent to injury or assumption of risk and indemnity agreements is not an easy task. His view was that South African courts justifiably approached such defences with caution (Neethling, In SAASSPER, 1991).

Maré (In SAASSPER, 1991) researched the issue of “Drug misuse in sport.” She considered whether sportsmen and sportswomen should be permitted through the use of medicines or drugs to extend the boundaries of performance. He defined the term “drug” and referred to the two relevant statutes in South Africa, namely the Medicines and Related Substances Control Act No. 101 of 1965 and the Abuse of Dependence-Producing Substances and Rehabilitation Centres Act No. 41 of 1971.

According to Maré (In SAASPER, 1991), if the rules that sport bodies adopt as their own rules are not in conflict with the law or against public policy, the law will not intervene, but sports rules cannot amend, qualify or repeal the law. It was within these broad limits that each organisation was free to decide whether or not doping should be prohibited in its own sport and if so, what drugs should be banned.

The investigation also considered the following issues:

- ignorance of a sports organisation's doping rules
- doctored food and drink
- duty to comply with doping rules
- prohibited substances used for therapeutic purposes
- supply of medicines or drugs and testing procedures.

Klopper (In SAASPER, 1991) presented a paper on "Road Sports and Activities and Transportation," which outlined the legal principles applicable to road related sporting events and other activities. The following questions were discussed:

- What laws / legal rules govern the organising of a sport event on a public road and what procedures are to be adopted to obtain the required consent?
- What is the legal position of a participant when injured during a road event either as participant or as passenger?
- What is the legal position of the transporter of a participant?
- What is the legal position of an organiser of a sport event with respect to a participant or a spectator injured during such an event?

The author concluded with a list of guidelines for competitors and organisers of sport and recreational events (Klopper, In SAASPER, 1991).

Viljoen, H.P. (In SAASPER, 1991) investigated aspects of administrative law that applied to recreation and sport. He discussed the legal standing of sport bodies and clubs as voluntary associations; meetings, votes and decisions; appeal and review;

administrative law and the rules of natural justice; the contents of the rules of natural justice; the rights of sports people that are protected by the courts.

Franzsen (In SAASSPER, 1991) delivered a paper on “Insurance and Claims.” He covered the general principles of insurance, life insurance, personal accident insurance, personal liability insurance, property insurance, travel insurance and claims.

Visser (In SAASPER, 1991) discussed “Some elementary legal principles regarding fundraising, sponsorships, lotteries, competitions, copyright and written material and music.” “The Liquor Act and its application” was discussed by **Botha** (In SAASPER, 1991). “Specific statutory measures pertaining to animals, tourism, forestry, parks, grounds and the environment” was investigated by **Brink** (In SAASPER, 1991). “Contracts and Agreements: rights and responsibilities of both parties, contracting out, etc.” was researched by **Grové** (In SAASPER, 1991).

The symposium proceedings thus covered a range of relevant legal principles applicable to the field of recreation and sport. However, while most of the issues would still be relevant in South Africa, many of the anticipated changes have already occurred. South Africa has entered the international arena of recreation and sport. It is well known that the country has become a formidable force in rugby and cricket internationally. As mentioned in the earlier chapter, the country has adopted a new constitution including a Bill of Rights. New legislation, which would regulate the behaviour of all people involved with sport has already been promulgated (The South African Sports Commission Act No. 109 of 1998; The National Sport and Recreation Act No. 110 of 1998; South African Institute for Drug Free Sport Act No.14 of 1997). There have been many further developments in the field since 1991, precipitated by increasing professionalisation and commercialisation of sport and leisure. The courts have tried many new cases. Thus research into the area of sport law in the context of the “New South Africa” becomes essential.

This study therefore seeks to clarify the legal position in respect of sport laws where the law of delict is applicable. It will focus on what is actually being done or not being done in recreation and sport and what needs to be done to manage risks and to reduce the incidence of injuries and the possibility of litigation.

Rushing (1986), in his doctoral dissertation titled “The Development of a Self-Appraisal Instrument to Evaluate the Legal Vulnerability of Secondary School Athletic Programs,” extensively reviewed the literature related to sports law publications from 1958 to 1986 covering 118 references.

He formulated seven areas of concern: student rights, supervision, medical care, instruction, equipment and facilities, travel and transportation, and insurance. He selected 235 standards and recommended practices within those areas which were identified as being important to maintaining a safe and legally sound secondary school athletic program. A rating process which utilized predetermined criteria was employed by a panel of experts to establish content validity (Rushing, 1986).

He conducted a field test in fourteen secondary schools in North Dakota, U.S.A. The purpose of the field test was to obtain a measure of reliability and secondly to refine the instrument until it could best function as an evaluation tool.

The reliability of the instrument was established by the Pearson product-moment correlations obtained between the scoring of two evaluators within each of the school systems and one evaluator outside the school system. All except two of the twenty four correlations were significant at the .05 level.

It was concluded that a valid and reliable self-appraisal instrument appropriate for use in evaluating the legal vulnerability of secondary school athletic programs had been developed. Such an instrument serves as an invaluable evaluative device in the American school system and more particularly in the state of Dakota. The reason for this is that laws in America differ from state to state. What Rushing’s study signifies for research in

South Africa is that such an appraisal instrument is of paramount importance to determine legal vulnerability in sport and recreation departments of education institutions.

Girvan (1990) investigated “The development of an instrument to assess how risk management practices are addressed in intercollegiate athletic programs” in Idaho, U.S.A. An extensive literature review was undertaken, beginning with a description of risk management, followed by a historical sketch of the entrance of risk management into the realm of sports. The advantages of including risk management into athletic programs were described. The review concluded with a description of the risk management practices that experts suggest should be part of an athletic department’s risk management program. These practices were as follows:

- Supervision and instruction
- Equipment and Facilities
- Medical Care
- Travel and Transportation
- Insurance
- Civil Rights

The questionnaire used was an adaptation of the instrument developed by Rushing (1986) and validated by expert panelists, and a pilot study was done to further validate the applicability of the instrument. The target population was colleges and universities. The final risk management practices survey contained forty four items. Frequency data of the forty four risk management practices explained the manner in which the practices were addressed. A mean value was obtained for each institution to assess the generalized manner in which risk management practices were addressed.

The author concluded that a valid instrument had been developed to assess the manner in which risk management practices were being addressed. The applicability and use of the instrument was clearly demonstrated. The investigator also found that the questionnaire with the highest mean, showing the least items formally addressed, was also the one that

reported no formal review of risks and no personnel attending to risk review (Girvan, 1990).

It was recommended by Girvan that the results could help establish the need for risk management committees in athletic departments or the need for a professional risk management review. The risk management practices section of the questionnaire could become a device for self-evaluation, a checklist to assess a program's areas of neglect and areas that are being addressed appropriately.

The foregoing investigation is relevant to the present study in that the purposes and the target groups are very similar. The study sample was small and confined to an American inter-collegiate sport system. The issues investigated were regulated by American laws relating to sport. These may not be applicable to South African sport as South African laws relating to sport are based on Roman law and Roman-Dutch law. Further, many of the issues would be affected by the American legal system and legislature which are quite different in South Africa. The procedures and methods utilized gave the author of the present study valuable direction to research the aforementioned areas of sport law.

Gouws (1997) included a chapter on sport law in his book on "Sport Management." Unfortunately, the author dealt very cursorily with the following aspects:

- factors that may prevent legal action in sport
- liability
- negligence
- contract law.

The foregoing issues were presented factually as responsibilities of a sport manager, without any explanation as to the reasons for doing so. There were no references made to case law, legislation or to the constitution. Except for the section on contract law, in the entire chapter only one dated American reference work was acknowledged. The author failed to provide an analysis or an evaluation of the law in sport.

Labuschagne and Skea (1999) wrote an article on the “Liability of a coach for a sport participant’s injury”. Part of their research was undertaken in 1997 at the Ludwig-Maximilians Universität in Munich, Germany. A further part was undertaken in 1998 at the Northwestern University in Chicago (U.S.A.).

The authors established that it is a legal requirement that coaches and other officials assume responsibility to prevent or minimise injuries to athletes. If they do not meet certain requirements, they could be held delictually, and even criminally liable. It is also a legal obligation of schools and other educational institutions to take care that athletes and students do not participate in sport activities in conditions where there is an unacceptably high risk of injury.

The theory of negligence is outlined in this research. The standard of care expected of coaches is clearly explained. In keeping with the discussions in appropriate and relevant case law and legal commentaries, the following specific duties of coaches are discussed and analysed in a logical and progressive manner:

- supervision
- training and instruction
- proper use of facilities and equipment
- providing prompt and proper medical care
- knowledge of participants
- matching and equating participants
- warning of latent dangers

A very relevant legal consideration mentioned is that each particular duty is determined by the specific circumstances surrounding the activity. The duty to take care normally varies with the age, skill and experience level of the participants in addition to the nature and tempo of the sport. The authors provide significant and substantial commentary on the raised duty of coaches created by the changing nature and demands of modern sport. It is appropriate that the coach’s duty to keep up-to-date in all facets of the specific sport, sport medicine and scientific progress has been highlighted.

The authors concluded that while coaches experience anxiety because of legal exposure, the development of sport has also changed and developed the legal mechanisms available to coaches to protect themselves. Their solution is for coaches to be familiar with their duties, and hence refraining from the kind of conduct that potentially exposes them to liability. Effective risk management and continuing coach education are suggested as the best means to accomplish this. The authors correctly suggest that the courts balance their role of protecting coaches against the competing forces that make sport available to society for entertainment as well as athletic purposes. Probably the best mechanism coaches can use to equip themselves legally in preparation for sporting events is preparation, knowledge and anticipation of foreseeable consequences (Labuschagne & Skea, 1999).

2.3 CONTENT ANALYSIS OF RISK MANAGEMENT PRACTICES

The topic of sport risk management began appearing in the literature in 1982 and by 1986, books by sport law experts surfaced (Kaiser, 1986; Parmanand, 1987; Clement, 1988). The potential for litigation permeates all of society, including collegiate and university sport. It is therefore relevant to determine the measures a sport department can take to prevent or reduce lawsuits.

To identify the chief concerns and practices that athletic departments should address to reduce risks, eighteen articles, journals and books published by sport law experts between 1975 and 1998 were analysed. Results are given in Table 2.

Articles that focussed on a single topic, such as insurance, were not included. The most frequently listed risk management practices were categorized into specific areas: supervision and instruction; equipment and facilities; medical care; travel and transportation; insurance; and civil rights (Rushing, 1986; Girvan, 1990).

Staff Training
 Instruction Methods
 Ability Grouping

 Warning of Injuries
 Rule Conformance
 Activity Supervision

 Public Relations
 Hiring Qual. Personnel
 Crowd Control

 Equip. & Facilities
 Emergencies Proced.
 Pre-partic. Phys Exam

 Injury Report
 Return to Activity
 Travel & Transport

 Liability
 Accident/Catastrophy
 Civil Rights
 Written form

BOOKS USED	SUPERVISION & INSTRUCTION										MEDICAL CARE					INSUR.		APPROACH	
Gardiner et al., 1998	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Carpenter, 1995	✓	✓		✓		✓		✓		✓	✓	✓				✓	✓	✓	✓
Grayson, 1994	✓	✓			✓	✓		✓		✓	✓	✓				✓		✓	✓
Marquette Law S.J., 1993	✓	✓	✓	✓	✓	✓	✓	✓		✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Opie, 1992	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓			✓			✓
Peterson & Hronek, 1992	✓	✓	✓	✓	✓	✓	✓	✓		✓	✓	✓	✓	✓		✓	✓	✓	✓
AAHPERD, 1992	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓			✓	✓	✓	✓
U.P. Symposium, 1991		✓	✓	✓		✓		✓		✓	✓	✓				✓	✓	✓	✓
Girvan, 1990	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Trisley, 1990	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓					✓	✓		✓
Nygaard & Boone, 1989	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Baley & Mathews, 1989	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓		✓	✓	✓	✓	✓	✓
Clement, 1988		✓	✓	✓	✓	✓		✓		✓	✓	✓		✓		✓		✓	✓
Parmanand, 1987	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓			✓	✓	✓	✓
Kaiser, 1986		✓		✓	✓	✓		✓		✓	✓	✓	✓			✓	✓	✓	✓
Rushing, 1986	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Tempelhoff, 1983				✓		✓	✓	✓		✓	✓					✓	✓	✓	✓
Van der Merwe, 1975	✓	✓	✓	✓	✓	✓		✓		✓	✓	✓	✓			✓	✓	✓	✓

TABLE 2: CONTENT ANALYSIS OF RISK MANAGEMENT PRACTICES

The analysis revealed that the use of printed documentation was overwhelmingly recommended. Therefore, the category “Use of Written Form” was then added to the matrix to determine its suggested frequency by the authors (Girvan, 1993).

The content analysis (Table 2) revealed that instruction to staff, from staff to students, and from staff to the community dominated the literature. Nine specific concerns surfaced in this area, with virtually every author addressing at least four aspects of supervision and instruction. Staff must be trained to adopt existing legal standards (Carpenter, 1995). Qualified personnel must be hired to utilize safe teaching methods and to provide safe environments. The active supervision of activities was cited by all authors. The responsibility to adequately warn participants and spectators of the risk of injuries was discussed by all but one writer. The matching of participants in sport was mentioned by most of the writers. The importance of educating the public in reducing litigation cannot be underestimated (Gardiner et al., 1998; Peterson & Hronek, 1992; Girvan, 1990; Parmanand, 1987).

The duty to provide safe facilities for athletes and spectators and proper equipment for athletes was another area that was outlined by all authors.

All but two of the authors recognized the importance of well-defined emergency procedures for an accident or injury to athletes. Only half the researchers saw the necessity for accurately compiled injury reports based on facts. Even fewer (4) authors discussed the issue of medical permission to return to activity following an injury incurred by an athlete.

Eleven of the authors mentioned safe travel and transportation as important concerns, while all discussed the need for insurance, emphasizing liability rather than accident/catastrophic insurance.

The majority of authors indicated civil rights, including discrimination, free speech, search and seizure procedures, due process, drug testing, privacy and policies for hiring

and terminating personnel. According to Girvan (1993), this could well become a much greater loss for athletic programmes than recovery for the treatment of serious injuries. The one approach recommended by every author to identify and reduce risk was the use of printed forms to record what had been done and to provide evidence as a solid defense against liability (Carpenter, 1995; Opie, 1992; AAHPERD, 1992; Trisley, 1990; Tempelhoff, 1983).

The courts demand that any practice used to reduce risk be verified in writing to provide any protection. The writing could take a variety of forms eg. checklists, log-sheets, handbooks, manuals and record of events. Documentation should cover accident reporting, medical history, staff meetings, coach/instructor certification, hiring procedures, requests for equipment repair etc. Even the documentation of the risk management plan is important.

2.4 CONCLUSION

The analysis not only revealed areas of concerns to be addressed by sport departments, but also the prominent concerns that have surfaced over the past two decades. They are a sign of the times and those that have created problems for managers of sport programmes. An awareness of current risk management concerns and practices would help everyone involved in sport, especially sport officers and directors.