

# Event Risk Assessments at Venues: U.S. vs. The Rest of World

By Wayne Middleton

Risk assessment is recognized as an essential part of venue and event planning in many modern industrial nations. However, many venues in North America are lagging other parts of the world when it comes to documenting and implementing proactive risk identification, assessment and control processes for each of their events. In this article, we discuss why event risk assessment is currently not prioritized in the U.S. and compare how it is approached in different comparable jurisdictions.



# Two Reasons U.S. Venues and Event Organizers Don't Prioritize Pre-Event Risk Assessment

**Here are the top two reasons why U.S. venues and event organizers don't prioritize risk management as much as those in other parts of the world.**

## 1. Health and Safety Laws

One of the key differences between the U.S. and other countries is the stringent health and safety laws. In countries such as Australia, United Kingdom and New Zealand, heavy fines and prosecutions can apply for serious breaches of the expected duty of care. In addition, the duties imposed on venues and event organizers extend to third parties who are not employees (i.e., contractors) and to members of the public.

In Australia and New Zealand, contractors are considered as workers of the employer. Therefore, the hazards that these workers may be exposed to are both the responsibility of the contractor's employer and the venue and event organizer engaging the contractor. This places an expectation on the venues and event organizers to conduct due diligence to ensure the safety of the contractor, including documenting, assessing and managing all potential hazards that they could be exposed to while working at events.

In the United Kingdom, the government's inquiry into the 2017 Manchester Bombing identified flaws in the venue's security risk assessment, as well as vulnerabilities and shortfalls in its security planning, which resulted in the introduction of anti-terror legislation called 'Martyn's Law.' These new laws, amongst other things, require the improvement of situational awareness training and the need to undertake terrorism-focused risk assessment for venues and events with gatherings of more than 800 people.

## 2. Lack of Well-Publicized Civil Cases

The U.S. legal system offers few well-publicized civil cases that specifically address the need for risk assessment even though it is an essential element in venue and event planning in other parts of the world. The result in the U.S. is a lesser focus on pre-event risk assessment and more so on safe operating procedures, security deployment plans, training, and post-incident response; such as medical response, emergency plans, severe weather response and crisis plans. While these are important, they are not forms of risk assessment. Institutions such as the IAVM's Academy of Venue Safety and Security (AVSS) are making efforts to address this, but right now this skill gap remains.

In countries outside of the U.S., judgments made from inquiries investigating death and injury on public land and at events make specific reference to the importance of pre-event risk assessment. Specifically, the requirement of venues and event organizers to determine the likelihood and consequence for dangerous occurrences. Common law judgments in negligence claims and civil cases (where the judgments are made public), can also include recommendations by the judge. These recommendations are based on expert advice, including advice on what constitutes appropriate levels of proactive risk management, particularly the importance of a documented risk assessment. As a result, over the last two decades, venues and event organizers have taken a much more proactive approach to risk assessment to ensure they meet the legal requirements.

## What Are the Legal Requirements for Event Risk Assessment in the U.S.?

While negligence laws vary from state to state, venue operators and event organizers in the U.S. are required to meet a high standard of care relating to people's safety and security while attending an event or mass gathering. The problem is that judgements in civil claims in the U.S. do not typically recommend a standard of care, but rather seek to determine whether a party failed to meet a threshold of care and, therefore, was negligent.

When determining if the duty has been breached, the courts seek to determine:

- Was there an expectation (burden) for risks to be managed?
- Was that burden less than what is reasonably practicable to be expected (based upon what is reasonably expected as good practice)?
- Was there an expectation that a loss would occur (likelihood of injury or property damage or loss)?
- Was the loss significant (consequence)?

In summary, the law of negligence in the U.S. expects venues and event organizers to manage foreseeable risks. To defend a negligence claim, defendants are expected to prove they have made a reasonably practical attempt to document foreseeable risk, assessed them for the consequence and likelihood of the injury or loss and if the quantum of risk was unacceptable (or prescribed under code), and mitigated to the relevant industry standard. Risk mitigation plans should be documented and fully implemented — ultimately, this is a form of event risk assessment.





## Why U.S. Venues and Events Should Utilize ISO31000:2018 – Risk Management Guidelines?

The United Kingdom, Australia, New Zealand and some European legal systems have established mechanisms and precedents that specifically identify the need for and importance of risk assessment. There are several accepted standards for risk assessment with the most popular being the ISO31000:2018 – Risk Management Guidelines, which outline a process of risk identification, assessment and control. These guidelines can be applied across all industries but are particularly useful for managing risk at venues and event planning. Adhering to these guidelines can help venues take practical measures to avoid negligence and to provide a safe and secure environment for all staff, contractors, patrons and other stakeholders at their events.

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