

# Operational Risk Management as Regulatory Strategy

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October 2012

## 10 Reasons Why Problem-solving Is *Impossible* (FDEP, August 1998)

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- (1) It's viewed as extra. Everyone is already busy with more structured, manageable tasks; all of which have deadlines and therefore take precedence.
- (2) The required analytic support is not available.
- (3) Problem-Solving has no formal budgetary support, nor any legislative mandate. Everything else the department does has *both*.
- (4) Real world problems come in awkward shapes and sizes, which do not fit established groups or units. Requires coordination across units/agencies.

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- (5) Management has failed to understand or support it.  
"We are left to push from down here ... it should not be *up to us.*"
- (6) Problem-Solving brings an unfamiliar degree of discretion, and uncertain degrees of authorization. Teams unsure of right to commit agency resources.
- (7) Persistent ambiguity as to whether problem-solving is really new. Many staff think it isn't. Several managers have already *declared* that it isn't. If not new, why worry?

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- (8) Project teams lack rigor in their approach. They don't understand why the different stages are necessary.
- (9) Engaging external parties (regulated industries, interest groups, etc.) without offering them any kind of veto or vote, awkward. Unfamiliar terms of engagement.
- (10) Problem-solving is regarded by many as an *alternative to enforcement*, and is consequently written off as "one of the fashionable new soft options being pushed by senior management as they sell out to political pressures."

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# Risk-Control Infrastructure

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## Problem-solving/risk-control Essential Infrastructure

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- A Nomination System: generating and funneling nominations.
- A Selection System: comparative assessment/selection.
- Assignment System: for committing personnel/resources.
- Project Records: project files, paper or electronic.
- Managerial Oversight and Periodic Review: for monitoring and adjustment during the course of a project.
- Reporting System: channeling project accomplishments into the agency's routine performance accounts.
- Support System: for Teams/Managers, access to consultants or specialists in the problem-solving art.

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## Problem-solving/risk-control Essential Infrastructure

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Two other features, while perhaps not absolutely essential, seem highly desirable:

- A Reward System: to provide recognition for project teams that achieve important results.
- A System for Learning: to provide broader access (within the organization and across the profession) to knowledge acquired: what works, what doesn't, what resources are available within and outside the agency, contact information, keyword-searchable databases of projects, etc.

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## Government's Risk-Control Tasks: Common Features

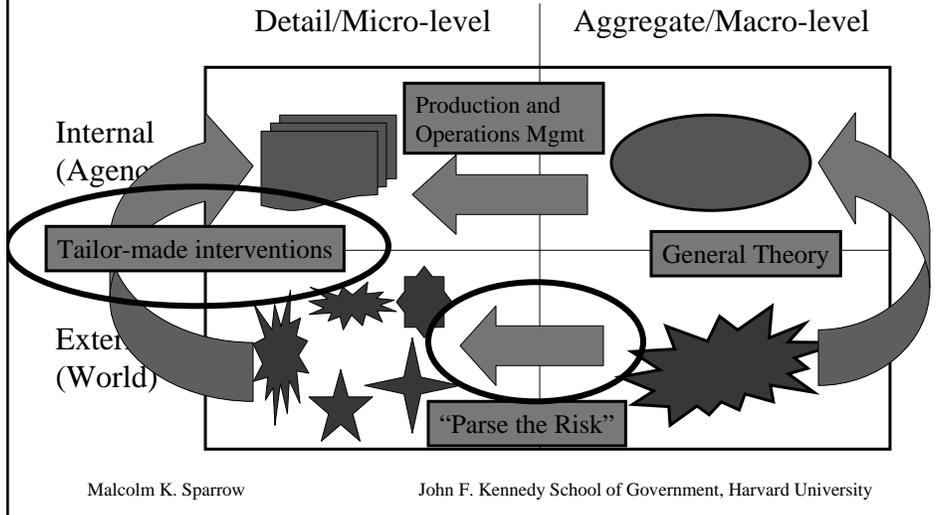
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- 1) Exist primarily to deliver *protection* from harms, rather than provide *services*
- 2) Major component is delivery of obligations to businesses and citizens
- 3) Entrusted with coercive power of the State
- 4) Criticized more often for uses & abuses of power, rather than uses & abuses of money
- 5) Face organizational challenge of integrating a range of reactive, preventive and proactive strategies into coherent control system

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# Theory of operations



# Life in the toolshed...

- extending the use of negotiated rulemaking in environmental protection
- exploring the role of civil society in corruption control
- evaluating the effect of "three-strikes and you're out" policies on crime levels
- reducing drug abuse by expanding drug awareness resistance programs in the schools
- decreasing worker injury rates through the use of experience-rated premium-setting for employers in workers' compensation insurance
- developing education and information campaigns that would help reduce international trafficking in women and children
- developing broader international cooperation among law enforcement and intelligence agencies in combating money laundering

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## Life in the field...

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- dealing with domestic burglaries being committed by high-school kids on their way home from school in mid-afternoon
- reducing the frequency of serious or fatal spinal and head injuries caused when roofers fall off roofs
- reducing the incidence of repetitive back-strain injuries in the nursing profession, caused by lifting patients without proper equipment
- eliminating corruption in real-estate development involving the infiltration of local development boards and manipulation of land prices
- reducing arsenic in surface waters on golf courses
- eliminating the practice of port-running, used by drug smugglers at land-border crossing points between Mexico and the United States
- reducing the threat of commercial airplane hijacking by terrorists willing to commit suicide
- combating the trafficking of Nepalese girls for prostitution in eastern Europe by smuggling organizations deceptively offering modeling careers

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**PICK IMPORTANT PROBLEMS:**

**FIX THEM**

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# OSHA Survival Strategy (1995)

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PICK IMPORTANT PROBLEMS:

FIX THEM:

THEN TELL EVERYBODY!

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## Targeted interventions

Applied at the point of maximum leverage

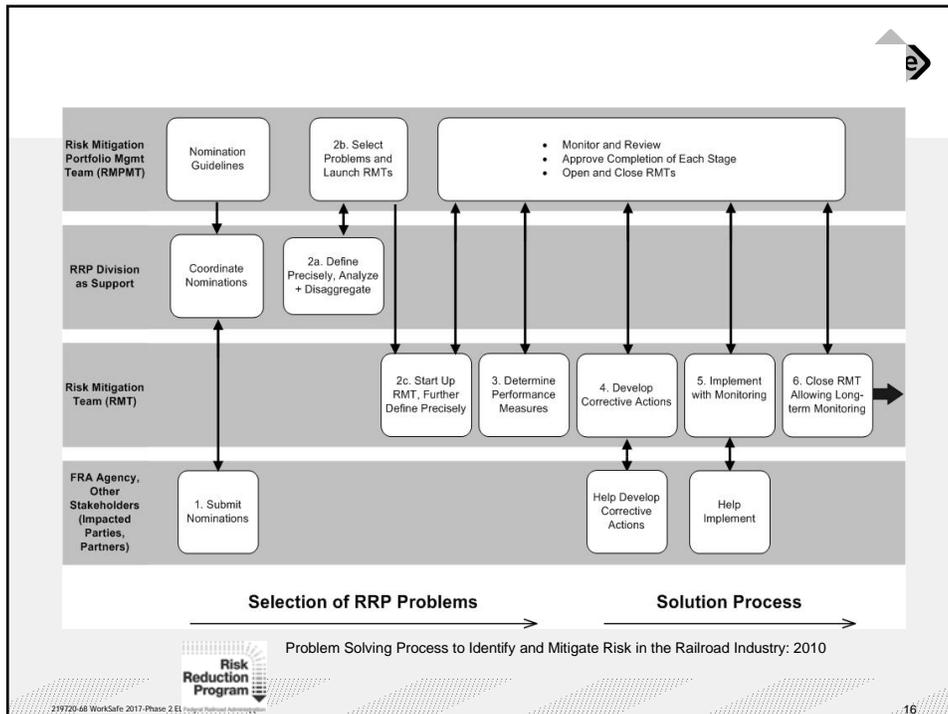


### Targeted intervention process

Nominate issue	Precise definition	Success criteria	Develop intervention	Deploy and review	Close and monitor
<p>Focus on risk clusters where we have highest ability to improve safety outcomes</p> <p>Gather data and test patterns (e.g. remuneration growth vs. claims rates; rainfall and agriculture claims)</p>	<p>Uncover root cause and potential control points</p> <p>Investigate through internal and external partnerships (eg inspectorate, HSR, industry groups)</p>	<p>Determine how to measure impact</p> <ul style="list-style-type: none"> <li>Indicators</li> <li>Methods for measuring</li> </ul> <p>Outline expected changes from our actions</p>	<p>Assess optimal leverage point</p> <ul style="list-style-type: none"> <li>Supply chain</li> <li>Control hierarchy</li> <li>Community</li> </ul> <p>Select the right mix of tools, channels and partnerships</p>	<p>Implement plan through actions of WorkSafe and partners</p> <p>Monitoring, review and adjust in a set cadence</p>	<p>Close project, allowing for long term monitoring and maintenance</p> <p>Link to systems compliance model to ensure sustainability</p>

Enhanced outcomes through developing and deploying strategies with partners and a disciplined process of research, design & monitoring

Source: *The Regulatory Craft: Controlling Risks, Solving Problems, and Managing Compliance*, Malcolm K Sparrow  
 219720-66 WorkSafe 2017-Phase 2 EIT update 5-7 Dec. pptx

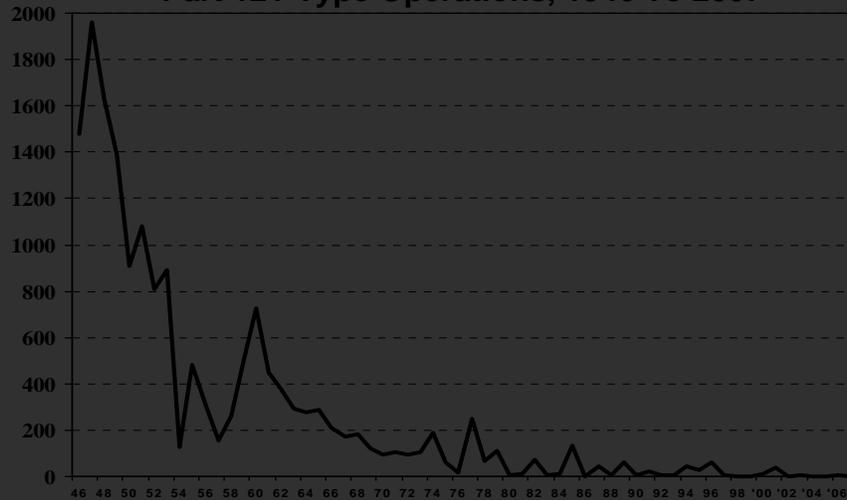


Problem Solving Process to Identify and Mitigate Risk in the Railroad Industry: 2010



219720-66 WorkSafe 2017-Phase 2 EIT update 5-7 Dec. pptx

### Fatalities per 100 Million persons Onboard, Part 121-Type Operations, 1946 To 2007



Proposed New FAA Safety Metric for Commercial Aviation  
April 13, 2007



Federal Aviation  
Administration

17

## Hiccups in the maturing of Problem-Oriented Policing

- 1) Problem-Solving is for Beat Officers
- 2) Compstat (narrower forms can be restrictive)
- 3) Continued emphasis on "Placed-Based", hot-spots, cops-on-dots  
Does "Predictive Policing" extend our analytic imagination, or merely refine familiar approaches?
- 4) Evidence-Based Policing: aggressive claims by some proponents to be arbiters of "what works."  
Figuring out what *kinds* of science policing needs, broadening academic support, getting the balance between social science & natural science methods.  
"Which programs work?" v. "How does the world work?"

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## "Compstat"—implementation options

	Narrow forms:	Broader (mature) forms:
Data Sources:	Reported Crime Rates	Multiple sources, including victimization surveys
Forms of Analysis:	Geographic (by Precinct & cluster) & Temporal	Versatile, considering full range of relevant dimensions
Performance Focus:	Drive the numbers down	"Expose & Deal" effects
Locus of Responsibility:	Precinct Commanders	Tailored to each problem
Managerial Style:	Adversarial	Cooperative/Coaching
Preferred Tactics:	Directed Patrol, Street Order Maintenance	Full range of interventions

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## Tensions between Operational Problem-Solving & "Evidence-Based Policing"

- 1) EBP is too slow for operational purposes (3-5 year lag)
- 2) EBP produces no new solutions, and may narrow the range of solutions available (use only programs "that work")
- 3) Social Science focuses on subtle effects at high levels; problem-solving focuses on obvious effects at lower levels
- 4) Greater influence for EBP may (ironically) reduce the level of experimentation (more complex & demanding protocols)
- 5) EBP may perpetuate "program-centric" mindset, as opposed to "problem-centric" mindset
- 6) EBP, with focus on statistical analysis, may not recognize the best problem-solving performance ("spot & squish")
- 7) EBP focuses on establishing causality; problem-solving focuses on eliminating or reducing problems, then moving on quickly
- 8) EBP focuses on interventions, and pays little attention to organizational competencies (even failures are valuable...)

"Governing Science" Sparrow, 2011. New Perspectives in Policing, NIJ/HKS

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# Pick Important Problems: Fix Them

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Experienced by those who have grappled with it as:

- Different
- Intellectually demanding
- Analytically demanding
- Organizationally awkward
- "Unrelentingly difficult"
- Extremely effective!

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