

# AMERICA OUTDOORS 2016

## Developing an Incident Response Plan

- Liabilities
- Risks
- Tensions



# What is an emergency or crisis?

- **Emergency** = (1) : a **foreseeable** or **unforeseen** combination of circumstances or the resulting state that calls for immediate action; (2) : an urgent need for assistance or relief.
- **Crisis** = (1) An unstable situation of **extreme danger or difficulty**; (2) An event that brings, or has the potential for bringing, an organization into disrepute and imperils its future profitability, growth and possibly its survival.



# What to Prepare For...

- Post accident responses may have a lot to do with whether you get sued or not.
- The more serious the incident the more elevated your response should be and the more potential there will be for litigation.
- One of the keys to minimizing injury/illness producing incidents (and damage to your business) is to have a written emergency response plan or protocol in place that is drafted with the particular characteristics and needs of your operation in mind.

# Key Elements of a Response Plan

- Emergency Response Protocols: outlining decision-making and financial authorities, response level categories
- Roles: who does what, use of prepared checklists
- Communication: within the organization and to lawyers & insurers. Devices necessary to summon help: what the current standard is.
- Information: what to transmit – injuries & treatment, what you need, information on client group
- Coordination/Organization: initial communication with outside entities, roles/responsibilities, rendering first aid, evacuation of injured person/body, consolidation of equipment, tending to needs of other clients, addressing needs of staff after incident, CISD



# What to Do and Who to Notify

- Clearly identify incident response roles and responsibilities (response plan)
- Provide first aid, rescue and evacuation services for injured party(s)
- Evacuation of an injured client or body recovery
- Be in contact with base-of-operations, company management
- Emotionally stabilize and make decisions on trip outcome for all other clients



# What to Do and Who to Notify 2

- Contact insurance company and attorney
- Coordinate with injured party on necessity of contacting family of injured party
- Contact responsible sheriff's or other law enforcement agencies
- Contact permitting agencies (public land administrators)
- Contact other outfitters in field area



## Obtain (1):

- Witness statements, complete lists of participants and addresses
- Physical evidence and evidence of scene
- Staff/guide/instructor statements
- Documents from ER and land administrator –
- Principal investigators observations...
- Photographs/video tapes - did your clients or others shoot photos? Can you get them?



## Obtain (2):

- Participant agreements
- Releases/exculpatory agreements
- Radio logs or trip manifests
- Media reports
- Your current ops plan
- Copies of your advertising
- Discovery and discoverable materials



# NEGLIGENCE



- Negligence under the law is generally defined as the failure to use ordinary care; that is, failing to do what a person of ordinary prudence would have done under the same or similar circumstances.
- Essentially we are looking to determine whether an operator, educator or land administrator could or should have recognized an unreasonable risk and then did nothing to warn the participant or to reduce or eliminate the unreasonable risk.
- Look for 2 things: was the risk foreseeable and was the risk unreasonable.

# FREQUENCY & SEVERITY


- If it was foreseeable – then a reasonably prudent person (forecaster) would move to minimize/mitigate the risk.
- If the risk that produced the injury was in no way foreseeable then we cannot say that there is a corresponding duty to respond.
- Think: risk ‘predictability’ or ‘probability’
- Usually ‘industry standards’ form or coalesce around the notion that professionals set out to minimize/mitigate risks that produce either severe or frequent results.
- As expressed in forecasting terms, questions fundamental to risk assessment and employment of mitigation techniques include an analysis of 1) the probability of any given event occurring and 2) the consequences of an event occurring

# Proving Negligence: “Standards of Care” & “Industry Standards”



- A “standard of care” will be used to measure the competence of the operator/guide/etc.
- If the so-called professional’s conduct falls below such a standard he/she/it may be held liable for injuries or damages resulting from such conduct.
- The “standard of care” can be determined in a number of ways, but the most common way is from “standards of practice” developed and perhaps published by organizations.

# Defining the “Standard of Care”



- Standards are defined as the action or conduct established by most of the “industry” or “profession” locally, regionally and nationally.
- In court expert witnesses may well take opposite points of view and attempt to sway the judge or jury as to what actually is the standard of care.

# Standards of Practice - General



- Standards of practice published by professional organizations are commonly referred to as standards, guidelines, recommendations or position statements.
- Organizations publish or enunciate “standards” to provide benchmarks of desirable practices.
- Because these published or enunciated standards can be entered into evidence in a trial or claim proceeding to determine the standard of care or duty that the operator or educator owes to the injured person, it is critical for recreation entities to know what standards are being published or enunciated.

# PRE-ESTABLISHED CHAIN OF COMMAND

Sample Structure:

- (1) Incident Commander
- (2) Trip leader/ On-Scene Manager
- (3) Accident Investigation Coordinator
- (4) Logistics Coordinator
- (5) Media Spokesperson (designate an “alternate” or back-up during extended crises)
- (6) Injured & Family Relations Coordinator/Liason

# 1. Incident Commander

(1)– The Incident Commander is responsible for leadership, decision-making, and oversight of the entire operation. This responsibility requires management experience, knowledge of Search and Rescue operations, diplomacy skills, people skills and a broad sensitivity to organization's interests.

Activate the initial response and Coordinate with company owner to designate positions:

- Trip Leader is the default On-Scene Manager until designated On-Scene Manager arrives
- Accident Investigation Coordinator
- Logistics coordinator
- Media Spokesperson
- Family Relations Coordinator

## 2.) Trip Leader

- Responsible for organizing and implementing the response in the field. The Trip Leader sounds the alarm, triggering the Plan!
- Assess emergency (figure out what is going on before you act and risk putting yourself or others in danger)
  - Undertake immediate and reasonable rescue effort, where possible and prudent.
  - Call 911, search and rescue, park service (if applicable) and other assistance where needed
  - Trigger the Plan: Trip Leader recognizing catastrophic incident should call (or direct someone to call) the company ASAP, and ideally speaking with the Incident Commander



# 3. ACCIDENT INVESTIGATION COORDINATOR

- Take calls and disperse them accordingly. Write down all pertinent information.
- Obtain and compile things. (note –prepared incident report forms can aid you in this process):
- Document location and conditions at incident site – weather, air temp, water temp, wind and other conditions, where appropriate, such as water flow, snow conditions, snow depth and the like.
- Inventory and photograph equipment involved, do not alter it, and, if possible, set it aside, start a chain-of-custody log, and do not put equipment back into use until Incident Commander and counsel approve (note- law enforcement, permitting agencies, etc, may also wish to inspect equipment before it goes back into use)

# 4) LOGISTICS COORDINATOR



- Supports the Search and Rescue operations with vehicles, food, equipment, and facilities
- Communicate with company staff, resort/hotel/outpost where trip originated, attorney, insurance representative
- • Notify law enforcement (if not already involved) and permitting agencies (if required)
- Communicate with Incident Commander to organize vehicles, food, equipment and facilities for the rescue operations
- If rescue operations will likely be lengthy, plan for it
  - For example, if they go into night, provide lights, headlamps, heaters, batteries, extra radios, hot meals, water, etc.

# 5) MEDIA SPOKESPERSON



- Works to control release of information to media and to keep positive focus, as well as positive public image of company. Also works with other Agency PR departments in coordinating information released. (Media Spokesperson should be a senior executive, but not necessarily the most senior executive. This allows the spokesperson to defer questions he/she might not be ready to answer to be answered in a later statement by a more senior executive).
- BE PREPARED to talk to the media
- Follow certain guidelines when communicating with the media, for example:
  - o Draft a press release with Incident Commander and, if applicable, legal counsel
  - o Try to stick closely to this information and your prepared talking points.
  - o Remember that you only get one chance to make a first impression

# 6) INJURED & FAMILY RELATIONS COORDINATOR

- Provide prompt and continuing information to, as well as maintaining a good relationship with, the injured's/deceased's family members. This is not only ethically the right thing to do, but it is also one that is more likely to convince the injured party and/or their family not to bring a claim in the future.
- Gather accurate information facts from and coordinate with Incident Commander and other incident leadership positions
- Obtain emergency contact information/family/ next-of-kin contact information
- Accompany injured guests to the ER if necessary
- Be the first one to make the call

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# THE END

## THANK YOU



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