



June 12, 2009

Dear Mr. Duffy:

I am writing to inform you of a grave issue affecting the provision of Search and Rescue services across the province.

As you may be aware, a number of parties, including Golden Search and Rescue, are being sued by the bereaved husband of a couple who ventured out of bounds in Golden. The story has been in the national papers but, in short, after a number of days in the wilderness, during which they left SOS messages that were initially not responded to for a variety of reasons, the husband was rescued, but his wife died from exposure.

Golden Search and Rescue are being sued amongst various parties (the RCMP, Kicking Horse Resort). In the particular case of Golden SAR their delay in responding is cited. Anyone who understands the system of SAR in BC will know that SAR groups are not authorized to self-dispatch, and can only be dispatched under the authorization of the RCMP and the Provincial Emergency Program (PEP) in Victoria.

In any event, our concern rests not on the particulars of this case, which is clearly an attempt to sue as many parties as possible in the hope of apportioning blame to at least one of them. Our concern stems from the fact that PEP have informed Golden SAR that they (and more specifically Golden SAR's Directors) are on their own in responding to this lawsuit. They must contact their Directors' liability insurance provider in the hope that they will pick up the bill for legal representation. Failing this, the Directors themselves will have to find the means to provide this out of their own pockets.

As you know, SAR groups are comprised of volunteers who give up their time, freely, to train and to risk their lives in order to help others. If the consequence of this is to be asked to put their livelihoods on the line in the event of lawsuits, then clearly no-one in their right mind will act as a Director of a SAR group or indeed even as a volunteer.

PEP's unwillingness to support SAR is all the more concerning to us in light of Section 18 of the Emergency Program Act of 1996 which states:-

Exemption from civil liability

18 *No person, including, without limitation, the minister, the other members of the Executive Council, the director, a local authority, the head of a local authority, a member of a local authority, a volunteer and any other person appointed, authorized or required to carry out measures relating to emergencies or disasters, is liable for any loss, cost, expense, damage or injury to person or property that results from (a) the person in good faith doing or omitting to do any act that the person is appointed, authorized or required to do under this Act, unless, in doing or omitting to do the act, the person was grossly negligent, or (b) any acts done or omitted to be done by one or more of the persons who were, under this Act, appointed, authorized or required by the person to do the acts, unless in appointing, authorizing or requiring those persons to do the acts, the person was not acting in good faith.*

In short, societies and individuals acting under the auspices of the Act cannot be held liable for their actions, except in the case of gross negligence.

We cannot understand why PEP would choose not to apply the very Act that enshrines their mandate, and leave individual volunteers to fight such actions alone. We feel that PEP must intervene to provide a lawyer who will address this lawsuit, explain to the plaintiff the ramifications of the Act and support the SAR group involved. If they cannot do this, then it is not realistic to expect individuals to volunteer for SAR in any capacity, and very quickly the provision of SAR in BC will unravel.

The concern in Fernie is such that the entire Board of Fernie SAR has resigned- we cannot risk our families' financial well-being to provide volunteer emergency services. We are aware that various other SAR groups will be taking similar measures.

We would ask you to intervene on behalf of SAR in the province, with PEP and whoever else you feel appropriate, to ensure that Golden SAR and all SAR groups are properly supported in this regard, and that the support that the province will provide is clearly spelt out.

Sincerely yours,

Chris Thomas
Member and former Director
Fernie and District Search and Rescue