



Mr. Chris Duffy,
Director of Operations
Provincial Emergency Program
P.O.Box 9201, Stn Prov Govt
Victoria, BC V8W 91J

June 15, 2009

Dear Mr. Duffy:

We have noted the contents of the memo of June 12, 2009 from the Provincial Emergency Program addressed to GADSAR. We appreciate the effort to clarify certain issues that are threatening the provision of SAR services across the province.

As you may imagine, Fernie and District Search and Rescue (FADSAR) has the same concerns as GADSAR. You may be aware that pending clarification of these concerns the entire Board of FADSAR has resigned. That being said FADSAR is, as always, available to respond immediately when called by one of our tasking agencies. However, FADSAR cannot continue to exist indefinitely without a Board.

Following discussions with our legal counsel, there are certain issues raised in your memo that we would like clarified before we can be clear what sort of service, if any, FADSAR is in a position to offer in the future.

These are as follows:-

Support of SAR societies

We now understand that the province will not support SAR societies or their directors in the event of a claim because they have "no legal relationship" with them. As such, Directors must look to third-party insurance to cover them. Of course, if the claim exceeds the amount of that insurance, we now understand that the Directors would be individually liable for the excess. As you know, many SAR groups cannot afford and do not carry such insurance. We feel their Directors should be informed by PEP of the personal liability they are running in responding to PEP tasks. We would suggest that if PEP tasks a group which is not carrying insurance that PEP is contributing to the problem and should be deemed part of the problem. At FADSAR we do carry such insurance, which covers many things, including operational

legal claims. However, we are shocked to discover that the province would in no way support us, which could result in personal financial ruin for the Directors.

It is our view that if there is an impediment to PEP providing such support, created by the lack of a "legal relationship", then PEP should be looking for ways to create such a legal relationship, so that they can stand by their most dedicated volunteers in their (occasional) time of need. Clearly, PEP has a significant enough relationship with the societies to pay them collectively millions of tax dollars in return for their services, so it is not clear to us how there can be no legal relationship.

We are also unclear on how the coverage that exists does actually function: if a Director of a SAR society responds to a particular task, and is signed in as a volunteer, then if the society is sued due to actions taken or taken on that task, surely the Director's liabilities would fall under the coverage? They have been sued, as the Act provides for, while authorized to respond in an emergency, and should be exempt from civil liability. The Act does not provide for certain roles or functions of individuals to be excluded from this coverage.

Question: Does PEP intend to formalize the relationship with SAR societies in order to provide protection for Directors of SAR societies? Do Directors, signed in and responding to a task, have full coverage?

\$2 million limit for civil liability

As you mention in your memo, the Emergency Program Act states that volunteers will be exempted from civil liability. This is also stated in the GSAR manual that all our volunteers are expected to read and learn. Nowhere does it mention a \$2m limit per incident. This is the first time we have ever heard of this, and none of our volunteers are aware of it. We would like to understand what this limit means:-

- Is it per volunteer per incident?
- Is it a total for a single incident?
- Does it include both legal expenses and potential awards?

You will understand that given the nature of our activities, it is possible that a major controversial case could generate legal fees and/or awards far in excess of this amount. Are we to understand that volunteers would then be expected to fund the difference?

Question: Why is there this limit, which has not been advertised to Directors or volunteers, exactly how does it work, and what happens if it is exceeded? A limit is not consistent with an exemption.

WCB coverage

We understand that, notwithstanding some confusion in the past, WCB coverage is provided for SAR members on a task. In order to inform our members properly, we would like to have the limits that apply, both in terms of amounts payable, and periods of time they are available for. We need to ensure that our members are fully aware of any shortfall they may face.

Question: What are the exact financial parameters of WCB coverage for SAR volunteers?

At present we are concerned that being a Director of a SAR society or simply a SAR member appears to expose the individual to unlimited liability above a certain amount, and this is not a basis on which we can recruit or retain emergency volunteers for either role.

Our lawyer has requested that a PEP staff lawyer contact him immediately to discuss clarification of these issues. He can be reached at:

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We look forward to your immediate response.

Chris Thomas
Ferne and District Search and Rescue