

## Wilderness Risk Management Conference 2017: Portland ME

Notes from Maria Jenness, who attended on behalf of MASKGI on 11/2/2017

### **Overall take-aways:**

The first two sessions I attended were focused on liability and legal issues. While interesting, there are a lot of wormholes one can go down when discussing these topics. While there are general rules of thumb that are important to note and keep in mind with respect to how you operate, some of the details may not be worth focusing on. Goal is of course to avoid court situations, and always mitigate hazards and prevent serious incidents from happening in the first place!

The second two presentations were more relatable to MASKGI. A presentation on “on site safety briefings” was relevant to the paddle talks guides give, but highlighted the themes common to all safety talks, which helps translate to other realms. The afternoon presentation by a member of the Coast Guard from Sector Northern New England in South Portland was excellent. It was interesting to see a kayaker search and rescue case from their perspective, including hearing audio of the VHF transmission and seeing what the Rescue 21 program and search patterns look like on their end.

You can visit [WRMC website](#) to view PDFs of all of the conference presentations, which is an excellent resource and I would encourage folks to do if they are interested in more of the details of what was covered. I would also be happy to further discuss my impressions with anyone interested.

### **Workshop: Top 10 Do's & Don'ts regarding Liability**

*Biggest take-aways/common themes:* all comes back to documentation & file management

The 10 Do's/Don'ts:

- 1- Documentation management
  - The administration, using, saving & *accessing* of documents & information is all critical
    - This pertains to documentation on both clients & employees
      - Ex. If something happens to employee OSHA may be involved & want documentation
    - If you have an incident, want to know exactly where to find file; if you don't seem organized it won't help your case
- 2- Insurance- want to have a good relationship with your insurer, personal relationship with broker
  - *Talk* to the adjuster assigned to your case, if you blow them off they won't help your cause
- 3- 3<sup>rd</sup> party vendors- if you work with them, are they covered? (e.g. vendors that provide food, transportation or other services)
  - Make sure you have contractual relationships
- 4- Employee issues & OSHA
  - Keep track of employee files on training, qualification etc. (documentation!)
  - Standards- good to talk with others in your industry so understand how they operate, and make sure you're practicing best industry standards (and if you choose to operate differently, you are able to articulate why you do things the way you do and understand how others do)
- 5- Client/participant relationship
  - Co-participant liability: Emphasize to participants that they have responsibility in keeping themselves safe- they need to listen to safety info/instructions & actively participate

- 6- Emergency Response Plan (ERP)
  - Have one! Make sure it is on paper
  - Review it periodically (annually?) to make sure current
  - Don't just have it and stick it on shelf- train your staff & document that training (and file that documentation!
- 7- Risks: inherent vs ones you create (i.e. negligence)
- 8- Marketing vs reality: think about the image you project of your product
  - Disclose the inherent risks (e.g. don't market your activity as "safe" if it has associated risks, such as is common to whitewater rafting or climbing etc.)
  - Mention waiver in marketing, even consider having it on your website so clients can view ahead of time
- 9- Release/waiver
  - Make sure it's reviewed periodically and is current
  - Consider relationship of your "product" to the waiver, and make sure it reflects reality
  - Make sure you instruct employees on how to administer the waiver: encourage clients to take time and read it. Never say things to effect of "everyone has to sign this" that dismiss or minimize the importance of it; if you say it doesn't matter, they could conceivably repeat/report that in court and it really won't matter
  - If working with 3<sup>rd</sup> party vendors, best practice is to have one release that covers everything, not one for each outfitter
  - Question of at what age children should sign for themselves- there is "rule of 7" that says at age 7 kids can follow instructions and understand enough. Encouraged folks to consider having minors under 18 sign in addition to their parents. Important to keep in mind statute of limitations, after they turn 18 it is possible to have to recall or ratify their signature.
  - Question about electronic waivers: thankfully courts have accepted them as just as valid as paper, so could be way to more easily manage them as far as ease of documentation and accessibility
10. Overall industry & your relationship to it (standards!)
  - You should understand how others in your industry operate. You don't have to do things the same way they do, but need to be able to articulate how and why you operate differently (this part seemed like aspect most relevant to MASKGI- demonstrates the value of an industry association that facilitates communication among different guides/outfitters).

## **Workshop 2- Offering Perspective: Industry Standards and Practices: What Does this Mean for Your Program**

*Overview:* This presentation was more focused on legal side of standards than I anticipated, and not the most applicable to MASKGI. Most of the references were specific to the mountaineering/climbing world, which have numerous standard setting bodies than the paddling world (ours would be organizations like ACA & BCU). They focused on the history and timeline of those bodies becoming established. Common theme was a large outdoor adventure company being founded (e.g. Outward Bound & NOLS), within a few years they would have their first death on a trip, and shortly after that associations would form to train and certify guides. This timeline can be reviewed in detail in the PDF of their presentation, available from the WRMC website.

*Useful discussion involved following definitions:*

Formal standards = those set by a standard setting body

Vs

Defacto standards = widespread practices that are commonly accepted (i.e. always wearing a PFD)

Standards vs practices are both external, whereas policy vs guidelines are internal

They focused on when and how any of those defined above could come into play in court. Example of published standards not always being the definitive source- many mountaineering publications or other set standards will have a written disclaimer in the publication that that standard is not the only way to operate. As covered in first workshop, it's important to know the standards and explain why and how you do things the way you do- ignorance of the standards does not help your cause in court, same as would be true of other laws (e.g. traffic violations etc.). Also discussed that even if not written, your own policies/guidelines/practices can be used against you, for example if an incident occurs and you/your guides had not been following your company's own policies.

### **Workshop 3- Strengthening Your Culture of Safety Through Onsite Safety Briefings**

*Overview:* This workshop seemed relevant to the kayak industry as it speaks to the "paddle talk" given before trips. Some other details were very relevant as well.

- Started by defining a "culture of safety" - it's about overall attitude & approach rather than a set of rules. Comes back to buy-in clients should have in being actively invested/involved in keeping themselves safe (discussed in first workshop)
- Can work to establish this mindset in participants before they even arrive: think about all the touch points you have (marketing, website, email & phone communication etc.)
- Need to train & empower leaders/employees: make sure they all buy in as well
  - When they give a safety briefing they set the tone, important that they emphasize importance of safety, not just "my boss said I have to tell you guys this stuff"; encourage open discussion
- They laid out common themes/components that are part of every safety briefing, and translate across activities/industries:
  - Activities & tasks
  - Potential hazards
  - Communication
  - Emergency response plan
  - Expectations & concerns
  - Participant questions
- Effectiveness of briefing result of being:
  - Planned & deliberate
  - Based on risk assessment\*
  - Timely & timing (when during process of trip you give it, and making sure you leave enough time to do it properly; my experience is also that you need to be mindful of not taking too long or you lose people and they may miss key info)
  - Practical
  - Empower participants

\* Presenters discussed risk assessment tool they use at their organization: a spreadsheet that outlines list of credible hazards, and for each one list category of hazard, details related to it, mitigating action to take, and what to do if something goes wrong related to that hazard

They encouraged all participants to bring action items back to their work by:

- Introducing a culture of safety,
- Creating list of hazards to include in safety briefings
- Practice! Best way to be effective is to be practiced with it

#### **Workshop 4- Interagency Incident Response: SAR Case Studies and Paddlecraft Safety**

*Overview:* The presenter walked us through a specific sea kayak SAR (search and rescue) case that was illustrative of a number of points regarding how they approach SARs. For those familiar, it was the case off Bois Bubert in June 2017- a search for a missing kayaker who had ended up rescuing himself and was on land not aware that a rescue was underway for him- emphasizing the importance of cancelling Mayday calls if you have placed one. Looking at the PDF of the presentation would be worthwhile; I found the images of what they see when planning/conducting SARs to be particularly interesting.

*Notes on vessels & other resources Coast Guard has access to in SAR cases:*

- The Amber Jack, a 87' CG cutter based in Jonesport, and a 110' CG cutter
- Noted that if a CG boat has white hull it's for SAR or law enforcement, ones with black hull are for dealing with navigation aids
- The servicing air station (i.e. Coast Guard helicopter) for Maine is in Cape Cod, which can be a few hours away; they frequently work with Canadian partners from Nova Scotia for air support
- Coast Guard will be incident command in a sea kayak SAR case, and coordinate with others to help (depending on location could include any of following: Maine Marine Patrol, National Park Service, Canadian response teams, local response teams such as fire or police departments)
  - They have "pre comms" (e.g. local folks ) then "ex comms"; basically they expand radius of those partners involved in search
- Response time: 1 hour is a really good (e.g. fast) response time, especially for downeast
- They use social media more and more to put word out about missing boater cases, has sometimes resulted in information coming to them (such as case he presented- they put it out via news media and someone recognized the voice and called the State)
- CG has numerous cases of boats adrift with no person associated with them, and need to treat those as missing person cases and initiate search. If they find a phone there is lab in Boston they work with to dry the phones and access data that may aid search efforts/connect to owner
  - This also stressed the importance of having contact information on boats

*Notes on search cases*

- There are 3 phases/levels of SAR cases: 1- uncertainty, 2- alert, 3- distress
- Use PSDA probability to determine search time: a computer program that predicts how long someone will survive (gives functional time and survival time) based on inputs. It includes as much data as possible about person/situation including air & water temp, age, gender, size, clothing type (wetsuit or drysuit or none) etc.
  - Program is designed to be as optimistic as possible, because the resulting time is what they base how long they'll search on. After that time period is up with no progress in the search, they will discuss suspending search- while they use a computer program to guide efforts, there is still always a human element to their determinations. In the case he presented, when nearing end of estimated survival time they decided to see what time would be if changed data to have person in dry suit, since assumed he was experienced enough he was likely to be wearing one- this extended search time by several hours.

- All search patterns are computerized and generated using the Rescue 21 system (see below); the officers on the boat can plug in the coordinates and go
- They keep track of all search patterns done (see PDF for image of chart with patterns mapped)
- If rescue involves searching for someone on an island, it is warden service to conduct search because land based, but will work with CG
- CG manages SAR, warden service responsible for recoveries
- If have a fatality in SAR case (or if have to make decision to call of search), duty to notify family/next of kin is on the authority & officer in charge
- If group trip situation someone from SEC CG (the response command center) will be in touch with trip leader, and be in frequent communication throughout SAR. They will set up "comm schedule" (they also refer to it as "battle rythm")- specific times to check back in. For example they may tell guide to call them back in 30 minutes with report (whether they have new information or not) unless you hear from them first.
- If it is an extended search involving an outfitter, the outfitter may be invited to the CG base to see what they're doing (they offer same to families, to show they're doing all they can and explain the process).
- CG conducts survivor debrief in all SAR cases

*Notes on VHF:*

- He played audio of VHF call- it sounded garbled and incomplete, showing that they don't always have a lot to work with and have to piece things together
  - Rescue 21 system is series of radio towers along coast that allows CG to determine location of caller by VHF signal- system provides overlapping circles of coverage so calls should always be picked up by at least one, usually 2 towers, which can be used to locate where VHF call was made
    - System shows lines of bearing from tower- if have 2 lines of bearing they focus on where those lines intersect
    - Depending on signal they don't always have lines of bearing, in which case the search area is football shape where two circles overlap (circles from 2 towers that picked up signal)
    - Towers are set at radius of 30 miles, but if have ideal conditions may get 50-60 mile range
    - \* Note- the images of this system are interesting to view, can access in the PDF of the presentation
  - Because of the capability of Rescue 21, VHF is best way to put out a mayday call (even if have cell service), because CG can use that to track where you are
- If use EPRB the ping goes to Boston HQ. If have emergency button on VHF and activate that, they will do investigation before launch SAR (more cases of faulty/accidental calls than real ones)

Side note: sometimes boaters will call CG if they see a rescue training and think it is a real emergency; CG encourages those running these trainings to give them heads up so they know if reports come in from others- call Operations Unit Command Center 207-767-0303 or 207-767-0422