

From: "Andrea Baird" <Andrea.Baird@us.davies-group.com>
Sent: 7/5/23 10:35 AM
To: "district7-2@shelbycounty-il.gov" <district7-2@shelbycounty-il.gov>
Cc: "district10-1@shelbycounty-il.gov" <district10-1@shelbycounty-il.gov>, Linda Talarico <Linda.Talarico@us.davies-group.com>, "Chris Smith (Decatur)" <Chris_Smith1@ajg.com>, Shelby County District 9 - Cody Brands <district9-1@shelbycounty-il.gov>, "Cc: Shelby County Board Chair - Bobby Orman" <shcboardchair@shelbycounty-il.gov>, Rich Stokluska <Rich_Stokluska@ajg.com>, Tim Corr <Tim_Corr@ajg.com>, Latisha Harrington <Latisha.Harrington@us.davies-group.com>, Jamie Bruner <Jamie.Bruner@us.davies-group.com>, Andrea Baird <Andrea.Baird@us.davies-group.com>
Subject: RE: Dive/Rescue Squads in Shelby County

Caution! This message was sent from outside your organization.

Good morning, everyone –

I am one of the liability supervisors at Davies. Jamie Bruner forwarded Martha's inquiry to me, and I have reviewed the email string of communications, below.

The best rule of thumb to assess whether an individual can be defined as an "volunteer employee" vs "independent contractor" is to evaluate how much control the Sheriff's Department/County has over the work/services being performed.

Based on the information provided by Martha, it sounds as though D/R may be considered an *independent contractor* and not "volunteer employees" of the County.

In response to whether the County would be covered for **liability** involving Dive/Rescue operations, it would largely depend on the allegations of wrongdoing being asserted under the claim/lawsuit, as to which coverage part of the policy would respond to the claim (i.e. General Liability, Public Officials Error & Omissions, or Law Enforcement Liability). Then, we would have to review the exclusions which exist under each of the sections of coverage.

For the most part, coverage would exist to indemnify the County and any individually named *employees and volunteers* of the County for allegations of wrongdoing asserted specifically against these individuals. Whether the D/R team is considered a County Volunteer, would largely depend on whether you can answer “yes” to any of these questions:

Does the Sheriff’s Department schedule when any of these volunteers need to be “on call”?

Does the County provide any of their equipment/tools/vehicles for the D/R Team to use during rescue operations?

Has the Sheriff’s Department provided the D/R Team with a list of policies/procedures they expect to be followed?

Does the County provide any compensation to the D/R Team whatsoever? (i.e. does D/R invoice the County for their services after the operations are completed?)

Is there any written contract between the County and D/R?

The definition of an “insured” under the policy is as follows:

15. **INSURED** means not only the **NAMED INSURED** as stated in the Declarations, but also includes any past, present or future officials; members of boards or commissions; and trustees, directors, officers, **volunteers**, employees or student teachers of the **NAMED INSURED** while acting within the scope of their duties as such. **INSURED** shall also mean any person, organization, trustee or estate to whom the **NAMED INSURED** is obligated by virtue of a written contract or written mutual aid agreement or other written agreement to provide insurance such as is offered by this Policy, but only in respect to acts or operations by or on behalf of the **NAMED INSURED**, and subject to the limitations on coverage contained in any such written contract or written mutual aid agreement or other written agreement.

Additionally, you will see that volunteers and auxiliary officers are also considered **INSUREDS** under the Law Enforcement Liability Coverage part:

16. LAW ENFORCEMENT ACTIVITIES means the activities of any INSURED while acting as a law enforcement official, officer, auxiliary officer, employee or volunteer of a law enforcement agency or department of the NAMED INSURED..

The only glaring exclusions which might be applicable to D/R operations involve the use of watercraft – but you will note this exclusion does not apply to use of watercraft where the operations are performed by an independent contractor:

Liability arising out of the ownership, maintenance or use, including loading or unloading, of watercraft over 50 feet, except with respect to use of same where operations are performed by independent contractors;

Other coverage exclusions could apply, depending on the facts and allegations asserted under the liability claims.

In response to coverage for Property/Equipment/Auto – coverage would be established based on what property is scheduled (listed) under the policy. If there are no Scheduled Property Forms attached to the policy, then coverage would be determined based on ownership and any contractual obligations the County may have for leased property and equipment.

I hope this is helpful. I will defer to Linda Talarico regarding the WC coverage for the D/R Team.

Thanks,

Andrea Baird
Claim Supervisor

26 Century Boulevard, Suite NT350
Nashville, TN 37214
P. +1 800-322-1276 ext: 2005
M. +1 615-560-6674
E. Andrea.Baird@us.davies-group.com
www.davies-group.com/claims/na/


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From: Jamie Bruner <Jamie.Bruner@us.davies-group.com>
Sent: Wednesday, July 5, 2023 8:11 AM
To: Andrea Baird <Andrea.Baird@us.davies-group.com>
Subject: FW: Dive/Rescue Squads in Shelby County

Andrea

I believe they should have been copying you and not me.

Jamie

Jamie Bruner
Claim Manager

312 Whittington Parkway, Suite 201, Louisville, KY 40222
P. +1 800-322-1276 ext: 2022
M. +1 502-373-3647
E. Jamie.Bruner@us.davies-group.com
www.davies-group.com/claims/na/

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From: Shelby County District 7 - Sonny Ross <district7-2@shelbycounty-il.gov>
Sent: Thursday, June 29, 2023 9:36 AM
To: district10-1@shelbycounty-il.gov; Linda Talarico <Linda.Talarico@us.davies-group.com>; Chris Smith (Decatur) <Chris_Smith1@ajg.com>; Shelby County District 9 - Cody Brands <district9-1@shelbycounty-il.gov>
Cc: Shelby County Board Chair - Bobby Orman <shcboardchair@shelbycounty-il.gov>; Rich Stokluska <Rich_Stokluska@ajg.com>; Tim Corr <Tim_Corr@ajg.com>; Latisha Harrington <Latisha.Harrington@us.davies-group.com>; Jamie Bruner <Jamie.Bruner@us.davies-group.com>
Subject: RE: Dive/Rescue Squads in Shelby County

That new information is correct.

I would ask that while everyone else in the conversation may have a deep history, knowledge and understanding of insurance language, terms and jargon; others of us are far less experienced. With that being said, I ask that all answers and responses have both the experienced response as well as a response that is able to be easily understood by a 4th grader. I appreciate everyone's help in this matter and am looking forward to your responses.

Thank you.

Sonny

From: "Shelby County District 10 - Martha Firnhaber" <district10-1@shelbycounty-il.gov>
Sent: 6/29/23 8:29 AM
To: Linda Talarico <Linda.Talarico@us.davies-group.com>, "Chris Smith (Decatur)" <Chris_Smith1@ajg.com>, Shelby County District 9 - Cody Brands <district9-1@shelbycounty-il.gov>
Cc: Shelby County Board Chair - Bobby Orman <shcboardchair@shelbycounty-il.gov>, Rich Stokluska <Rich_Stokluska@ajg.com>, Tim Corr <Tim_Corr@ajg.com>, Latisha Harrington <Latisha.Harrington@us.davies-group.com>, Jamie Bruner <Jamie.Bruner@us.davies-group.com>, Shelby County District 7 - Sonny Ross <district7-2@shelbycounty-il.gov>
Subject: RE: Dive/Rescue Squads in Shelby County

Linda,

Thanks for the response. I want to add some notes based on your response to see if it changes the answer as to whether or not the WC coverage would be applicable to the D/R teams.

1. The team members are NOT employees of the county.
2. The team members are NOT employees of other D/R companies that are specific to what they do. Their full time jobs are outside the scope of D/R.
3. When they respond to a scene they are not "helping out Shelby County". They are not operating under the direction of the Sherriff. When they respond to a scene they take over and it is their operation at that point. The Sherriff Dept may make the call to D/R that an incident has occurred and they need to go but D/R may receive calls from other entities or even the general public as well. D/R operate independently.

Sonny and Cody - if I have misspoke or you have comments to add given your work on this subject matter, please jump in and add those comments.

Thanks to all for the assistance in helping us figure this out. Have a thoughtful and thankful Thursday :)


Martha Firnhaber

From: "Linda Talarico" <Linda.Talarico@us.davies-group.com>
Sent: 6/27/23 8:10 PM
To: "Chris Smith (Decatur)" <Chris_Smith1@ajg.com>, "district10-1@shelbycounty-il.gov" <district10-1@shelbycounty-il.gov>, Shelby County District 9 - Cody Brands <district9-1@shelbycounty-il.gov>
Cc: Shelby County Board Chair - Bobby Orman<shcboardchair@shelbycounty-il.gov>, Rich Stokluska<Rich_Stokluska@ajg.com>, Tim Corr <Tim_Corr@ajg.com>, Latisha Harrington<Latisha.Harrington@us.davies-group.com>, Jamie Bruner<Jamie.Bruner@us.davies-group.com>
Subject: RE: Dive/Rescue Squads in Shelby County

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I will respond regarding workers' comp. The D/R team does not need to be part of the county to be considered volunteers. If they are employees of another county or another company (a D/R company specific to what they do, not some arbitrary job), then their company typically handles their workers' comp claims. However, if they "volunteer" to help out Shelby county – and assuming it is under the direction of the sheriff's department (which it typically would be), if they are injured and have NO work comp coverage with their employer (if there is one for the D/R team, which typically there is not), then Shelby County will be responsible for the claim/injury.

Thanks, Linda

Linda Talarico
Sr. Claim Adjuster

26 Century Boulevard, Suite NT350
Nashville , TN 37214
P. +1 800-322-1276 ext: 2109
M. +1 779-548-0247
E. Linda.Talarico@us.davies-group.com
www.davies-group.com/claims/na/

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From: Chris Smith (Decatur) <Chris_Smith1@ajg.com>

Sent: Tuesday, June 27, 2023 1:28 PM

To: district10-1@shelbycounty-il.gov; Shelby County District 9 - Cody Brands <district9-1@shelbycounty-il.gov>

Cc: Shelby County Board Chair - Bobby Orman <shcboardchair@shelbycounty-il.gov>; Rich

Stokluska <Rich_Stokluska@ajg.com>; Tim Corr <Tim_Corr@ajg.com>; Linda Talarico <Linda.Talarico@us.davies-group.com>; Latisha Harrington <Latisha.Harrington@us.davies-group.com>; Jamie Bruner <Jamie.Bruner@us.davies-group.com>
Subject: RE: Dive/Rescue Squads in Shelby County

Hi Martha,

Thanks for bringing this to our attention. I have copied the County's CIRMA sales and claims teams here for input. We will review and someone will respond as soon as possible.

Thanks again.

Chris Smith CIC, CRM

Area Senior Vice President

CA License No. 4034670



P: 217.233.3341 | F: 217.233.3301 | M: 217.521.1246

Chris_Smith1@ajg.com

www.ajg.com | www.linkedin.com/in/chris-smith-ajg1

Gallagher

101 S. Main St., Suite 200 Decatur, IL 62523

www.ajg.com

Arthur J. Gallagher Risk Management Services LLC.

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From: Shelby County District 10 - Martha Firnhaber <district10-1@shelbycounty-il.gov>
Sent: Tuesday, June 27, 2023 1:05 PM
To: Chris Smith (Decatur) <chris_smith1@ajg.com>; Shelby County District 9 - Cody Brands <district9-1@shelbycounty-il.gov>
Cc: Shelby County Board Chair - Bobby Orman <shcboardchair@shelbycounty-il.gov>
Subject: Dive/Rescue Squads in Shelby County
Importance: High

[EXTERNAL]

Chris,

Good afternoon. I hope this finds you doing well. I have included Cody Brands on this email. Cody is a county board member, a co-Legislative Committee member and is also a member of the Public Health and Safety Committee.

Cody has brought to my attention that we have had a serious situation arise regarding the Dive/Rescue Squads (D/R) and we would like to get your feedback regarding any, if any, affect this situation could have on insuring those squads.

The long and short of it is that it has come to the board's attention that the D/R were not established according to statute years ago. Cody and the PHS Committee are working diligently to determine how best/legally/statutorily appropriately to rectify the situation but it seems as this is not going to be an easy fix.

Given D/R are not legally departments or offices of the county we have questions/concerns regarding how the county insurance program would respond to any claims derived from D/R operations. Work Comp - would the volunteers have coverage if it is determined they are not technically volunteers of the county? Property/Equipment/Auto - does that come down to what entity it is titled/deeded/leased to? General Liability - again, if a claim arises out of their operations and D/R were not properly established could coverage not respond/apply?

I am sure there will be questions and we will do our best to answer those. I am in hopes we can all work together to attempt to have answers, or at least the best answers we can have, knowing what we know as of right now.

Thanks much for your expertise and guidance,

Martha Firnhaber

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