

From: "Shelby County District 10 - Martha Firnhaber" <district10-1@shelbycounty-il.gov>
Sent: 7/15/23 12:55 PM
To: "Chris Smith (Decatur)" <Chris_Smith1@ajg.com>, "district7-2@shelbycounty-il.gov" <district7-2@shelbycounty-il.gov>, Andrea Baird <Andrea.Baird@us.davies-group.com>
Cc: Linda Talarico <Linda.Talarico@us.davies-group.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

Chris,

Thank you for taking time out of your Saturday to speak with me this morning. As I mentioned during our call, I had attempted to reach you on Thursday, late afternoon, but did not leave a message as I was heading to the county board meeting and taking a return call would not be possible.

Per our discussion this morning, I had an opportunity to discuss the insurance matters with State's Attorney Hanlon Thursday afternoon. During the discussion Mr. Hanlon brought to my attention the issue regarding the potential for lack of tort immunity for the dive team members due to the lack of being properly established. It is my understanding that the county does have tort immunity and, if properly established, the Dive Squad and it's members would as well via the vicarious liability the county has for them. Without being properly established all of that becomes questionable and each individual Dive Squad member could be personally liable.

As I advised this morning, based on the unknowns and in order to not put the county, Dive Squad and squad members at undue risk, the decision was made to have the Dive Squad stand down until the issue of proper establishment could be resolved. There will be a special county board meeting on Tuesday evening with the goal being to get the Dive Squad properly established. As I mentioned, I will send an email on Wednesday morning to all on this email to hopefully confirm we were able to get it done.

We appreciate the time and assistance everyone on this email and any others that have been involved behind the scenes, have provided to us as we work through this difficult situation.

Thanks much and have a wonderful day,
Martha Firnhaber

From: "Chris Smith (Decatur)" <Chris_Smith1@ajg.com>
Sent: 7/13/23 4:35 PM
To: "district7-2@shelbycounty-il.gov" <district7-2@shelbycounty-il.gov>, "district10-1@shelbycounty-il.gov" <district10-1@shelbycounty-il.gov>, "Andrea Baird" <Andrea.Baird@us.davies-group.com>
Cc: Linda Talarico <Linda.Talarico@us.davies-group.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

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Hi Sonny,

I'm sorry I missed your call. In our experience, there is no such rider as referenced below. Due to the unique circumstances of each claim, it is not possible to issue a blanket claim and/or coverage opinion. We have outlined our general coverage opinion below based on the information the board has presented to date.

As discussed with Martha Firnhaber this morning, should the board have any further claim and/or coverage related questions, we can work to facilitate a conference call.

Thank you.

Chris

Chris Smith CIC, CRM

Area Senior Vice President

CA License No. 4034670



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CA License No. 0D69293



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From: Shelby County District 7 - Sonny Ross <district7-2@shelbycounty-il.gov>

Sent: Thursday, July 13, 2023 3:11 PM

To: Chris Smith (Decatur) <Chris_Smith1@ajg.com>; district10-1@shelbycounty-il.gov; Andrea Baird <Andrea.Baird@us.davies-group.com>

Cc: Linda Talarico <Linda.Talarico@us.davies-group.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

[EXTERNAL]

Dear Chris,

I am requesting expedited delivery of the policy rider showing extended coverage of ultra hazardous activity.

At this juncture it would be inappropriate for any of the parties involved to be expected to accept a few lines of response "you are covered" without all parties being able to review real documentation.

Please provide me with these documents ASAP as this is of an urgent nature.

Sonny

Chairman of Shelby County Dive Committee

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

Sent: 7/12/23 4:37 PM

To: "district10-1@shelbycounty-il.gov" <district10-1@shelbycounty-il.gov>, Andrea Baird <Andrea.Baird@us.davies-group.com>, "district7-2@shelbycounty-il.gov" <district7-2@shelbycounty-il.gov>

Cc: Linda Talarico <Linda.Talarico@us.davies-group.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

Caution! This message was sent from outside your organization.

Hi Martha,

Based on your comments below, the Dive and Rescue Squads each have line item budgets within the County budget that have been approved each year by the County board. With this in mind, the dive and rescue related activities of each squad are sponsored by the County, and would be covered by the County's insurance, subject to existing policy terms and conditions.

We do ask that you communicate with our team as it relates to a timeline in which both units will be properly established, including Board oversight of all related activities. This should be a priority item for the Board.

We look forward to hearing from you when the timeline is established for each unit.

Thank you!

Chris Smith CIC, CRM

Area Senior Vice President

CA License No. 4034670



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From: Shelby County District 10 - Martha Firnhaber <district10-1@shelbycounty-il.gov>
Sent: Wednesday, July 12, 2023 9:12 AM
To: Andrea Baird <Andrea.Baird@us.davies-group.com>; district7-2@shelbycounty-il.gov
Cc: 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

[EXTERNAL]

Good morning everyone. I wanted to touch base on the email below. Not trying to be pushy at all but we are trying to determine the best way for the county board to move forward with the Dive and

Rescue squads at this time and until we can get them properly established. We do not want any of the squad members at risk of not having the proper coverage nor do we want the county at risk of not having the proper coverage for their actions.

Please let us know your thoughts on the responses provided below and THANK YOU for your assistance with this matter.

Have a wonderful day 😊

Martha Firnhaber

From: "Shelby County District 10 - Martha Firnhaber" <district10-1@shelbycounty-il.gov>
Sent: 7/6/23 10:07 PM
To: Andrea Baird <Andrea.Baird@us.davies-group.com>, "district7-2@shelbycounty-il.gov" <district7-2@shelbycounty-il.gov>
Cc: 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

Andrea,

Sonny, Cody and I had an opportunity to meet this evening to go through the information you shared in depth. I have added notes below in red and in highlight as I thought that might be easiest to review.

In addition to the notes added below, an additional piece of information that came up during our meeting that we wanted to share for your thoughts is - at this time D/R does not have authorization from the state to run Responding Code lights and sirens. How might this affect coverage if D/R is responding to a scene with light and sirens on and they are involved in an accident?

We appreciate the assistance from everyone involved as we work to protect the D/R team/squad and the county. We look forward to hearing the response.

Thanks much and have a wonderful weekend!

Martha

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 responses in this email we will be interested to hear your thoughts on D/R being 'volunteer employee' or 'independent contractor'.**

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"? **NO**

Does the County provide any of their equipment/tools/vehicles for the D/R Team to use during rescue operations? *The county has provided a budget to D/R since their inception that has been approved by board majority vote each budget year for equipment/tools. At this time we do believe the vehicles are titled to the county.*

Has the Sheriff's Department provided the D/R Team with a list of policies/procedures they expect to be followed? *NO! Dive has standard operating procedures and standard operating guidelines that have not been approved by any entity that can be verified. Rescue has no standard operating procedures or standard operating guidelines at this time.*

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?) *There are no invoices from and paid to D/R. Again, the county board votes to approve a budget line item to Dive and line item to Rescue each fiscal year. Outside of those funds, each D and R do hold fundraisers.*

Is there any written contract between the County and D/R? **NO**

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. *There are no written agreements, contracts, etc. of any kind between D/R and the county.*

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**.. *Based on answers provided above we are not certain this portion of the policy applies. We are looking to hear your thoughts based on information provided above.*

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: **Based on answers above would D/R be considered Independent Contractors?**

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; Does this mean there is liability coverage for watercraft under 50 feet regardless of being independent contractor or not?

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

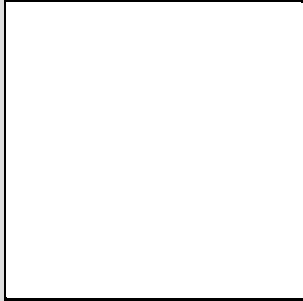
In response to coverage for Property/Equipment/Auto – coverage would be established based on what property is scheduled (listed) under the policy. If there are no Scheduled Property Forms attached to the policy, then coverage would be determined based on ownership and any contractual obligations the County may have for leased property and equipment. **Would it be possible for someone to send us a copy of the policy? In whole would be great but if we could at least get the property and inland marine schedules that would at least let us have something for review.**

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



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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	
<div style="border: 1px solid black; height: 20px; width: 100%;"></div>	
312 Whittington Parkway, Suite 201, Louisville, KY 40222	
P. +1 800-322-1276 ext: 2022	
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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

Caution! This message was sent from outside your organization.

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

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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



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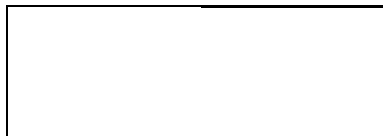
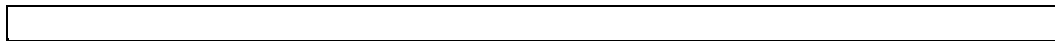
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From: Shelby County District 10 - Martha Firnhaber <district10-1@shelbycounty-il.gov>
Sent: Tuesday, June 27, 2023 1:05 PM
To: Chris Smith (Decatur) <chris_smith1@ajg.com>; Shelby County District 9 - Cody Brands <district9-1@shelbycounty-il.gov>
Cc: 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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