

# SARSCENE 2010

## AM I COVERED?



# WHAT



- I. Review types and limitations of coverage
- II. Personal responsibilities as a Supervisor

# WHY



- Increasing threat of legal liability
- Liability as “professionals”
- Need to understand protection layers

# Types of Coverage



1. Specific Legislated Protection
2. Good Samaritan Acts
3. Government Self Insurance
4. Standard CGL policies
5. Municipal/govt policies
6. SARVAC Liability Insurance Policy

# Limitations on Coverage

## 1. Specific Legislation protections

- a. gross negligence exclusion
- b. must be operating under a task #
- c. not covered for fundraising, PR events, Preventative SAR and sometimes training
- d. does not cover SAR Unit or Directors
- e. does not protect against defence costs



# Limitations on Coverage

2. Good Samaritan Act - same as specific legislation but also;
  - a. Need not be operating under a task # (philosophy)
  - b. Protects only medical services or aid
  - c. Protects only those at the immediate scene
  - d. Arguably does not apply to SAR at all (any organized response)
  - e. Does not often protect medical professionals



# Limitations on Coverage

## 3. Government Self Insurance

- same as specific legislation but also;

- a. Usually an inadequate coverage limit (\$5m is the new \$2m)
- b. Is applied inconsistently
- c. Lose control of the defence
- d. Often hidden exceptions (usually in general policy statements)
- e. Gross negligence exception



# Limitations on Coverage



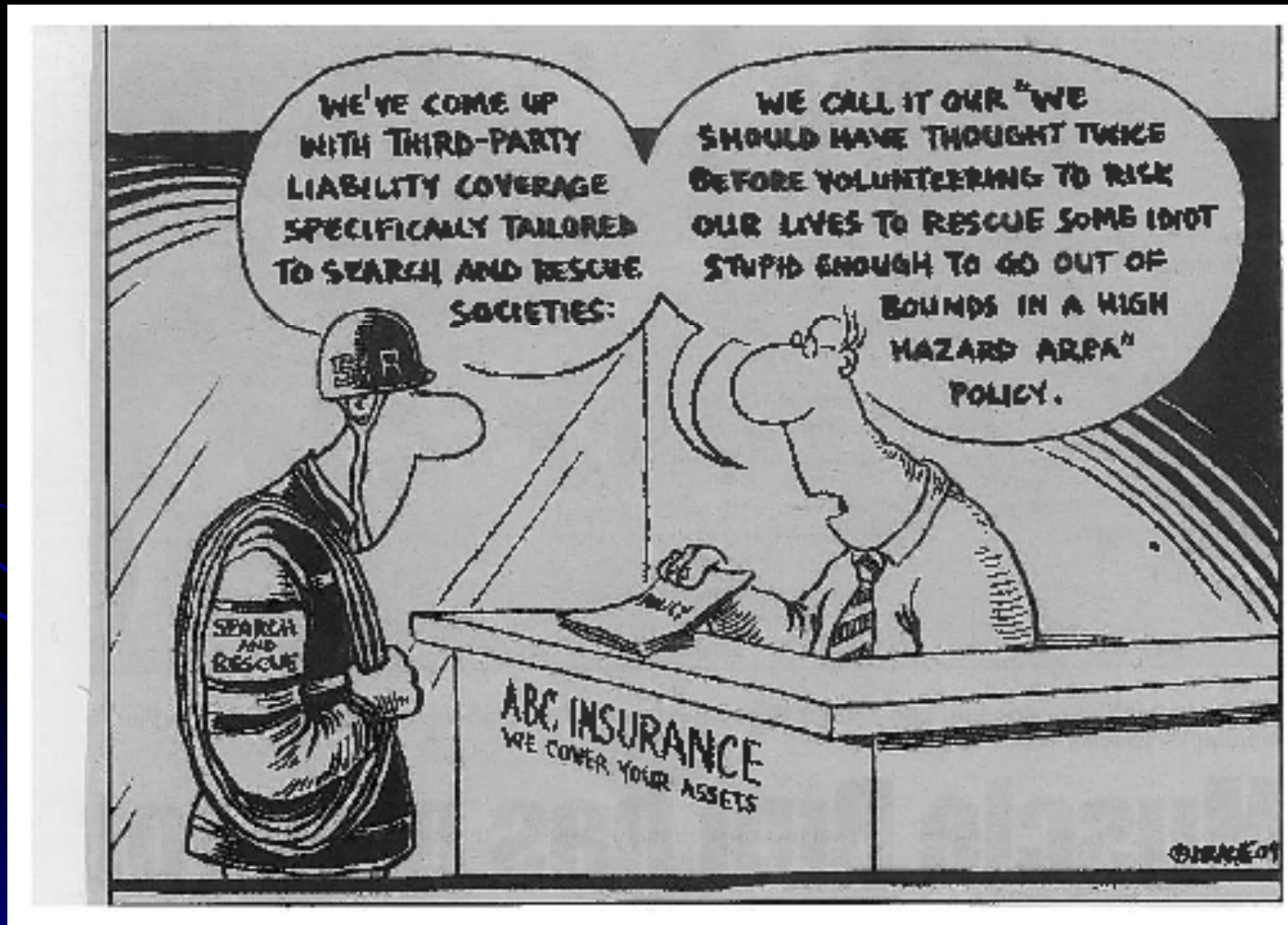
4. CGL policies
  - a. Cookie cutter, off the shelf generic policies
  - b. Insurer does not understand needs or risks
  - c. Totally unsuited for our many specific needs
    1. professional medical care
    2. boat operations
    3. water related tasks
    4. rope rescue
    5. avalanche response
  - d. Usually inadequate policy limits
  - e. Unexpected exclusions

# Limitations on Coverage



5. Municipal/govt policies
  - a. Usually CGL policy purchased for a number of volunteer activities
  - b. Not tailor-made to SAR and has gaps
  - c. Does not usually cover SAR Unit or its directors
  - d. Loss of control of defence
  - e. Geographic limits that will prevent coverage during mutual aid to neighbouring jurisdictions

# THE SARVAC INSURANCE OPTION



# Limitations on Coverage

6. SARVAC Liability Insurance Policy
  - a. Covers all of these things
  - b. Tailor-made for SAR operations and covers specified GSAR related activities (some exclusions)
  - c. “Backs up” medical professionals who already have their own applicable coverage
  - d. Has multiple policy limits that can be purchased (\$2m, \$5m, \$10m)
  - e. There are exclusions



# Responsibilities as a Supervisor

1. WorkSafe BC (SAR Safety Program Guide)
2. Canada Labour Code
  - ✓ Part 2
3. Criminal Code of Canada



# CRIMINAL CODE

"217.1 Every one who undertakes, or has the authority, to direct how another person does work or performs a task is under a legal duty to take reasonable steps to prevent bodily harm to that person, or any other person, arising from that work or task."



# CRIMINAL CODE

Bill C-45 also added Sections 22.1 and 22.2 to the Criminal Code imposing criminal liability on organizations and its representatives for negligence (22.1) and other offences (22.2).



# CRIMINAL CODE



- 4 cases (1 conviction, 2 pending, 1 dropped but convicted on related charges)
- The *Criminal Code* does not provide for a maximum sentence. Thus, the courts have great latitude to impose a sentence they deem appropriate under the circumstances, including jail.



**SUPREME COURT OF CANADA**

**CITATION:** R. v. Beaulieu, 2010 SCC 7, [2010] 1  
S.C.R. 248

**DATE:** 20100225  
**DOCKET:** 33181

**BETWEEN:**

**Her Majesty The Queen**  
Appellant  
and  
**Georges Beaulieu**  
Respondent

**CORAM:** McLachlin C.J. and Binnie, LeBel, Deschamps, Fish, Charron and  
Cromwell JJ.

**REASONS FOR JUDGMENT:** Charron J. (McLachlin C.J. and Binnie, LeBel,  
(paras. 1 to 9) Deschamps, Fish and Cromwell JJ. concurring)

**R. v. Beaulieu** 2010 SCC 7, [2010] 1 S.C.R. 248

**Her Majesty The Queen**  
Appellant

v.

**Georges Beaulieu**  
Respondent

**Indexed as:** **R. v. Beaulieu**

**2010 SCC 7**

File No.: 33181.

2010: January 12; 2010: February 25.

Present: McLachlin C.J. and Binnie, LeBel, Deschamps, Fish, Charron and Cromwell JJ.

ON APPEAL FROM THE COURT OF APPEAL FOR QUEBEC

**YOU DO NOT WANT  
YOUR NAME HERE!!**

# MAIN LINE OF DEFENCE



## Common sense

1. Assign volunteers to activities that are consistent with their knowledge, skills and abilities
2. Oversee and monitor their activities
3. Use appropriate methods
4. Ensure adequate equipment and clothing
5. Reject anyone who is unfit
6. Ensure their safety
7. Documentation
8. Pre-plans/Risk assessments
9. Always have a Safety Officer
10. **ALWAYS HAVE SAFETY OFFICER!!**

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