

Legal and Ethical Framework



Includes materials from Search and Rescue Topics: Legal Aspects, Copyright 2013 some rights reserved, CC-By-SA by Keith Conover

- Legal: What do applicable laws and common law principles say?
- Ethical: What will most reasonable people say is the right thing to do?
- Moral: What do you think is the right thing to do?

NEWSAR Code of Ethics

(selected points)

- Work under the Incident Command System
- Will not respond to any search unless called out by a responsible agency.
- Will not openly or publicly disagree with any aspect of a search.
- A search is a potential criminal investigation, disclosure of information could jeopardize prosecution.
- Will adhere to strict operational security during a search and not divulge information to any individual not participating in the search.

Authority Having Jurisdiction



Searches run under **Need to Know**

- You won't be told everything.
- Do not tell anyone anything about the search.
- Direct the press to the Public Information Officer. Say nothing to them.

The public does not Need to Know

- No sharing information on social media
- No sharing images on social media
- Any release of information about a search must be cleared with the public information officer first.
- Take no pictures, don't provide an appearance that information might be shared.

Do not publicly criticize any
Emergency Services Department.

No Freelancing

- Callout only on the request of an authority having jurisdiction.
- Callout is of teams as resources, not individuals.
- Cards/contact information given to authorities having jurisdiction must provide your team's callout point, not your personal contact information.

Scope of Practice



Standard of Care

- Consensus of informed opinion of how to care for a given medical condition or pursue a search and rescue operation in the context at the time and place of the condition or SAR operation. Expressed in appellate decisions on malpractice cases.
- For wilderness medicine and wilderness search and rescue there is little if any case law, certainly not enough to establish a standard of care. Current editions of relevant textbooks are seen, to a degree, as expressing this ideal standard of care.

Negligence

- Plaintiff must prove a chain of 5 elements
 - you had a **duty** to act
 - that you **committed** a unreasonable act or omission in the course of this duty
 - an **injury** occurred to the plaintiff
 - your act or omission **caused** the injury
 - you must have been able to **foresee** the injury

Engendered Reliance

Duty To Act

Abandonment

Consent (to medical care)

- Implied Consent
 - Patient is unconscious or has impaired capacity to make good decisions.
 - Any reasonable person would assume that the patient would want your care.
- Express Consent
 - Patient says “yes”
- Informed Consent
 - Needed not only for agreeing to medical care, but also for refusing care or evacuation or transport.
 - Inform them, what, in your best judgement, the outcomes are if they accept care or if they refuse it.

Evaluating Capacity to Consent

- First, when in doubt, do what is best for the patient.
- Second, the needed level of capacity varies with the seriousness of the decision.

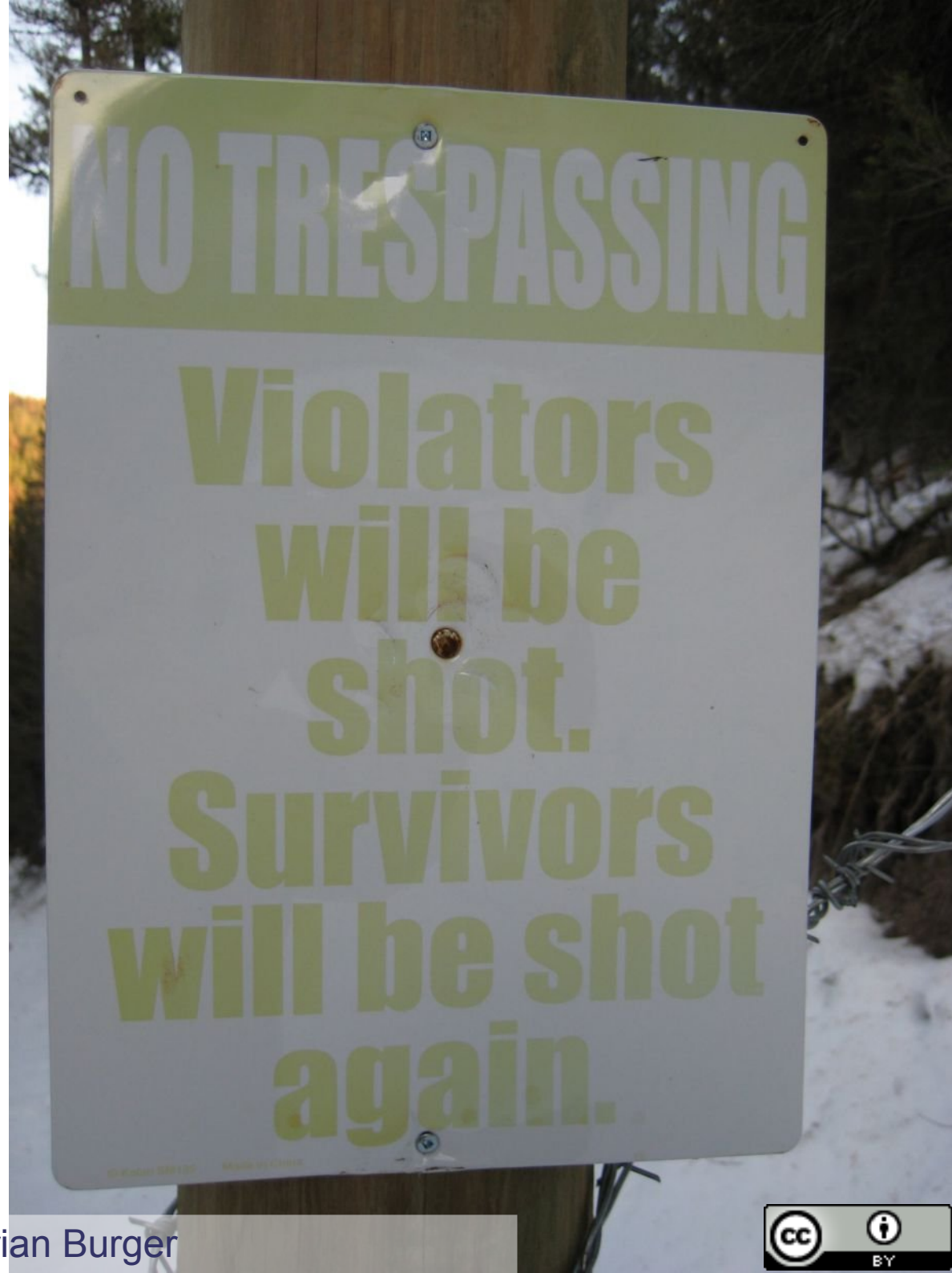
Entry onto private property

“[A]s long nobody objects, you are perfectly welcome to walk across someone else’s property in the US. There is no crime in doing so. However, if you do something stupid, like not closing a farmer’s gate behind the last member of your field team, then you may be liable for the loss of cattle.”

**NO TRESPASSING
THIS INCLUDES
BOY SCOUTS**

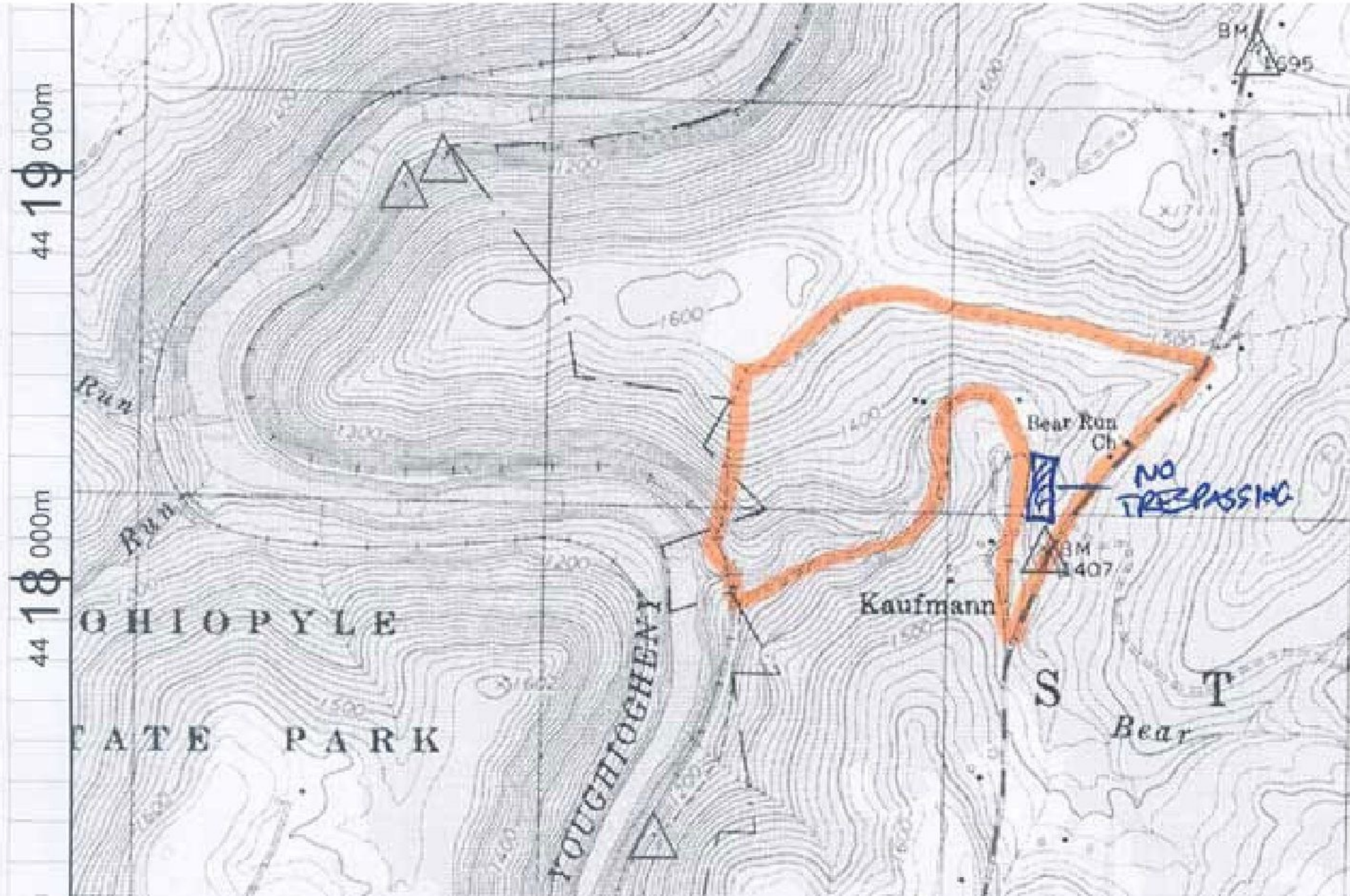
Trespass

- Someone tells you to get off their property
- The Property is posted **No Trespassing**
- Entry makes you liable for damages



Except

- Sworn peace officers with jurisdiction may legitimately enter lands posted No Trespassing during a search, and may take the rest of the team along with them.
- Doctrine of Necessity – to save a life – **very limited circumstances** – e.g. you **see** a person who needs immediate medical care.



Good Samaritan Laws

- Medical
- SAR

- Vary from state to state.
- Generally cover care rendered:
 - Without compensation
 - In good faith
 - Without gross negligence.

Details are Important

- MA SAR Good Samaritan Statute
 - Covers volunteers called out by the MA State Police.

Confidentiality

- Never share any specifics of tasks outside debriefing
 - May compromise a criminal investigation
- Never share any information about the subject's condition
 - Illegal under HIPAA
- Press: Refer them to the Public Information Officer.

What Not To Say over the radio

- Assume all communications are being monitored (by the general public and the news media and the perpetrator).
- Use other communication channels (cell phone) to report a find of a deceased person.
- No codes, unless you have been briefed on a code to use to communicate sensitive information (such as a find of a deceased subject when cell coverage aren't available).
- You do not want someone to overhear something they shouldn't (the perpetrator may be monitoring search communications).
- Absolutely no swearing the radio





**NO
UNSAFE
BEHAVIORS
PAST
THIS
POINT**




**Florida East Coast Railway Co.
Miami Yard**



Emergency Response

- Volunteers, Most Responders: With Traffic
- Emergency Services: Follow Departmental Protocols.



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Accountability

3 Cases in ISRID are of missing SAR Personnel

“In a bank, bad accounting may cost money. In a search, bad accounting may be life threatening”

INCIDENT CHECK-IN LIST (ICS 211)

1. Incident Name:	2. Incident Number:	3. Check-In Location (complete all that apply):				4. Start Date/Time:
		<input type="checkbox"/> Base	<input type="checkbox"/> Staging Area	<input type="checkbox"/> ICP	<input type="checkbox"/> Helibase	<input type="checkbox"/> Other
Date: Time:						

Check-In Information (use reverse of form for remarks or comments)

5. List single resource personnel (overhead) by agency and name, OR list resources by the following format:							6. Order Request #	7. Date/Time Check-In	8. Leader's Name	9. Total Number of Personnel	10. Incident Contact Information	11. Home Unit or Agency	12. Departure Point, Date and Time	13. Method of Travel	14. Incident Assignment	15. Other Qualifications	16. Data Provided to Resources Unit
State	Agency	Category	Kind	Type	Resource Name or Identifier	ST or TF											

ICS 211	17. Prepared by: Name: _____ Position/Title: _____ Signature: _____ Date/Time: _____
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ST/Unit:	LDW:	# Pers:	Order #:
Agency	Cat/Kind/Type		Name/ID #
<i>Front</i>			
Date/Time Checked In:			
Leader Name:			
Primary Contact Information:			
Resource ID #(s) or Name(s):			
Home Base:			
Departure Point:			
ETD:		ETA:	
Date/Time Ordered:			
Remarks:			
Prepared by:			
Date/Time:			
ICS 219-8 MISCELLANEOUS EQUIPMENT/TASK FORCE (TAM)			

ST/Unit:	LDW:	# Pers:	Order #:
Agency	Cat/Kind/Type		Name/ID #
<i>Front</i>			
Date/Time Checked In:			
Leader Name:			
Primary Contact Information:			
Crew/Team ID #(s) or Name(s):			
Manifest:		Total Weight:	
<input type="checkbox"/> Yes <input type="checkbox"/> No			
Method of Travel to Incident:			
<input type="checkbox"/> AOV <input type="checkbox"/> P OV <input type="checkbox"/> Bus <input type="checkbox"/> Air <input type="checkbox"/> Other			
Home Base:			
Departure Point:			
ETD:		ETA:	
Transportation Needs at Incident:			
<input type="checkbox"/> Vehicle <input type="checkbox"/> Bus <input type="checkbox"/> Air <input type="checkbox"/> Other			
Date/Time Ordered:			
Remarks:			
Prepared by:			
Date/Time:			
ICS 219-2 CREW/TEAM (GREEN)			

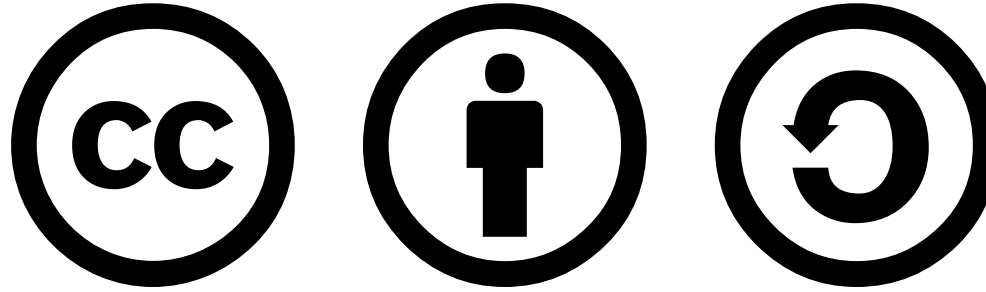
Nobody Leaves Last

Train As You Search



Documentation

- Search Documentation
- Your Own Documentation
 - Training Logs
 - Mission Logs



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