

Colorado system for investigating ski accidents raises concerns

By Karen Crummy The Denver Post The Denver Post

Posted:

DenverPost.com

When someone dies or is seriously injured on a Colorado ski slope, it is ski patrollers — not trained police officers, sheriff's deputies or forest rangers — who document and determine what happened.

Despite having only informal accident-investigation training, as well as potential conflicts of interest, ski patrollers and their reports are often relied on by local law enforcement agencies when they respond to calls on the mountains, The Denver Post found after reviewing Colorado accidents and lawsuits.

Many times, those agencies — responsible for investigating potential criminal activity, not skiing accidents — aren't called at all.

As a result, family members may have to accept the word of a resort employee about the circumstances that led to their relative's death or serious injury — and typically, they need a subpoena to get even that, attorneys say.

"And when I get the report, I have to ask myself, 'Am I getting what really happened or what (the ski resort) re-created?' " said lawyer Scott Larson, who has represented skiers and snowboarders in suits against resorts. "By and large, the average ski patroller tries to do the right thing, (but) in my experience, that oftentimes is not reflected in the final investigation after (the ski areas') risk management and lawyers get to it."

Of the state's 25 ski areas, only one — Wolf Creek Ski Area — would discuss ski-patrol training and accident investigations.

Wolf Creek chief executive David Pitcher said the insurance companies put on seminars "occasionally" to train patrollers in accident investigations. At Wolf Creek, there is a standard accident report and one or two ski patrollers do all the investigations for "consistency" purposes.

"If there's a serious accident, they follow the same procedures and investigate as objectively as possible," Pitcher said.

The other 24 resorts either refused to answer questions regarding ski patrol or did not respond to repeated calls and e-mails from The Post.

Police jurisdiction rare

Jennifer Rudolph, spokeswoman for Colorado Ski Country USA, the trade group representing all of the ski areas except the four owned by Vail Resorts, said in an e-mail: "We do not train or certify ski area employees and I do not have information about ski patrol training."

Only a few local police departments have any jurisdiction over ski areas, and sheriff's offices in Summit, San Miguel, Pitkin, Garfield, Routt and Eagle counties said their role is primarily to determine whether an incident involves a crime — such as theft, public intoxication or disruption — or a collision between slope users. When needed, they also assist fire departments and emergency medical services.

Summit County sheriff's deputies don't "respond to the majority of skier accidents. If it's a death, the coroner would respond," said spokeswoman Tracy LeClair. "Ski patrol usually handles the majority of noncriminal accidents."

Whether there may be a crime is usually indicated by the type of call that comes over 911 dispatch or by a call from the ski patrol, said Jessie Mosher, spokeswoman for the Eagle County sheriff's office.

"It often depends on the circumstances: If someone is cut off and hits a tree versus just hits a tree," she said.

When sheriff's deputies respond to a call, said San Miguel County Sheriff Bill Masters, they are often trying "to catch up."

"Ski patrol is there before us. Sometimes, the injured person has been evacuated before we arrive," he said. "We have to rely on ski patrol and their analysis quite often."

This reliance led the Steamboat Police Department to conclude that a skier died after he intentionally entered a closed trail — a decision later contradicted by the findings of a judge.

On March 17, 2011, Cooper Larsh was skiing at Howelsen Hill Ski Area for the first time. The 19-year-old was later found dead, his head buried in the snow near the alpine slide.

His mother, Maureen Ryan, [contended in court filings](#) that Larsh entered a trail at the top and, after several turns, "dropped straight down off the concrete retaining wall. His ski tips hit the bottom of the Alpine Slide and caused his skis to double-release." His upper body was buried in the snow, and he died of "positional asphyxia," according to the coroner.

In determining that Larsh intentionally entered a closed area, Steamboat police Detective Nick Bosick relied on investigations, including an accident reconstruction, from employees at Howelsen Hill and Intrawest, which owns Steamboat ski resort, [according to police reports](#). A ski-patrol supervisor employed by Intrawest told police that Larsh sidestepped uphill and intentionally entered a restricted area by skiing "around ropes and sign-age identifying the area to be closed."

[Bosick's report concluded](#) that "based on the information gathered during the investigation," Larsh's death was a "result of a single skier accident after he intentionally entered a restricted/closed area."

When Howelsen Hill, owned by the city of Steamboat, asked Routt County District Court Judge Shelley Hill to dismiss the suit filed against it by Larsh's mother, [the judge refused](#) after holding a hearing. Hill found that while the ski area had roped off part of the run, the 20-foot access at the top was not closed. Additionally, she found that two other skiers entered the run through the top closure that day. At least one of them, she said, believed it was an open run.

The city of Steamboat and the attorney for Larsh's mother declined to comment, citing pending litigation.

Needed information

Sometimes, ski areas don't give law enforcement information needed for an investigation. In 2004, a Colorado State Patrol sergeant was called to Vail to look into a fatal collision between a 13-year-old skier and an employee-driven snowmobile. He had never investigated a ski injury or fatality.

Sgt. S.J. Olmstead was assigned to the case because county law enforcement "didn't want to deal with it," [he said in a 2006 deposition](#). "So somebody had to go take care of it."

He said he was never told by Vail that the resort had conducted an investigation or an accident re-creation, and he was never provided with photographs and measurements taken by the resort on the day of the accident or any of its reports. Although he asked for Vail's policies concerning snowmobiles and the training logs for the driver, the

resort did not provide them. When one of his officers went to the accident scene, the snowmobile had been moved.

"At that point, we couldn't even be sure that the snowmobile we looked at was the snowmobile involved," he said, adding that this "probably" impaired the officer's ability to assess what happened.

Asked whether he believed "Vail fully cooperated in his investigation," Olmstead said, "No."

Vail declined to answer questions from The Post.

Ski areas consider ski-patrol and employee reports to be proprietary information. Therefore, victims or their families or law enforcement agencies cannot obtain them without the resorts' permission — or a court order.

When an Eagle County detective asked for copies of Vail ski-patrol reports after Taft Conlin, 13, died in an inbounds avalanche last year, they were initially told they could see the reports but not have copies , according to the incident-investigation report. Three days later, Vail Resorts told the detective he could have the reports when they were completed. He received them eight days after the accident, according to the report, which delayed the investigation.

The delay also prohibited Taft's parents from getting more information from the sheriff's office about what happened to their son. His parents still haven't received all the information from the ski patrol, said their attorney Jim Heckbert.

Reports and photographs

In San Miguel County, the sheriff must have a court sign off before getting Telluride's reports and photographs.

"They tell us we can view them but we can't get copies. But the best evidence is what we have in our hand. So we have to file a search warrant for records," said Sheriff Masters, who has served the county for 32 years.

Telluride declined to answer questions from The Post.

The amount of control that resorts have over investigations not only raises questions of accuracy, Larson said, but adds difficulties in evaluating the strength of a case.

"It's not until you depose someone that you may find out they didn't take the photographs of the scene until two days later," he said.

Despite the power that ski patrols have, it's not clear how they are trained to investigate accidents. The National Ski Areas Association has an incident-investigation guide that it gives its members, but the group would not let The Post see it.

The nonprofit National Ski Patrol trains patrollers in emergency-care methods. The group uses the Outdoor Emergency Care program, or OEC, which emphasizes treating ski and snowboarding injuries and using special equipment needed for outdoor first aid and transportation. It requires 80 to 100 hours of class time and studying.

"The ski area sets protocols for the daily duties (of ski patrollers)," said Tim White, the group's executive director, noting that many resorts use both volunteer and paid patrollers. "NSP does not offer a course on accident investigation. That's under the purview of the ski area."

Eric Hansen, Pitkin County's deputy coroner and a member of the Snowmass ski patrol, said patrollers do 40 hours of avalanche, ski-lift-evacuation and medical training before each ski season, as well as ongoing training and drills in the likes of equipment and trail safety during slow periods.

Accident-investigation training consists of "short classes here and there" or seasoned patrollers passing down the standards to new patrollers, he said. More-experienced patrollers often are put on an accident-investigation team, and they document facts and take photos, measurements and witness statements after an accident occurs. Hansen said he also does diagrams so if the accident "went to court, the jury would understand the scene."

Allyn Rey, a member of Sunlight Mountain Resort's ski patrol, said his accident-investigation training was a one-day "best practices seminar in Vail two years ago sponsored by the ... insurance companies or — Vail Resorts hosted it," according to his 2008 deposition.

He said he received "outlines of things to look for during investigations from the other larger ski areas that have risk-management departments." And, he said, a Vail patrolman who was an accident investigator took teams out and did scenarios in the snow. Then "everybody went through how they write things up and what their procedures are, and everybody just kind of shared information," he said.

Rey's testimony related to a 2008 lawsuit brought by New Jersey resident Roger Wiener, who alleged he was knocked to the ground by a ski-lift chair because of a Sunlight employee's negligence. He fractured the top of his left femur, where his leg meets his hip.

Rey said during the deposition that, because of other responsibilities he had on the mountain, he did not have time to investigate the accident scene until the next day. He also didn't go back and interview witnesses, including Sunlight employees, about what happened because "it just seemed like it wasn't that big of an injury, and there wasn't going to be any reason to go back and interview (them)."

A jury found in favor of Wiener. Sunlight declined interview requests from The Post.

Stanley Gale, a Colorado ski-safety expert with 45 years of experience, said the completeness of ski reports varies among, and even within, ski areas.

"The depth and quality of the report should match the circumstances and severity of injuries," he said. "I would rather see more information than less, the reason being that they can forget, after the incident, facts and circumstances."

17 weeks of training

On federally owned lands in Colorado, such as Rocky Mountain National Park, deaths and injuries are investigated by park rangers, who take part in a 28-week program that includes federal law enforcement training, according to park spokeswoman Kyle Patterson.

Although nearly all of the state's ski areas are leasing federal land, federal officials don't investigate every death and serious accident and are not responsible for finding fault or blame.

"Our investigations look only at the permit and operating plan," said White River National Forest supervisor Scott Fitzwilliams.

In January 2012, 13-year-old Taft Conlin and four friends entered the lower Prima Cornice gate at Vail Mountain. The run's upper gate was closed, and Vail was doing avalanche-mitigation work in the area. The lower gate wasn't roped off, and there weren't any closure signs. Taft and two friends entered through the lower gate, sidestepped 120 feet up the slope and were swept down by a 200-foot-wide avalanche, killing Taft.

The Colorado Avalanche Information Center found there "were numerous ski and snowboard tracks" in the area

http://www.denverpost.com/investigations/ci_22808316/colorado-system-investigating-ski-accidents-raises-concerns?source=share&utm_source=denverpost.com&utm_medium=referral&utm_campaign=denverpost.com&utm_content=denverpost.com

and could not rule out that someone else may have triggered the avalanche.

The White River review, done by Fitzwilliams, found that Vail complied with operational procedures and that no additional signage, rope barriers or gate closures were required under its permit.

The Arapaho and Roosevelt National Forests reviewed the inbounds avalanche that killed Christopher Norris, 32, at Winter Park on the same day Taft died. Norris was skiing in Trestle Trees when he was buried. [The Arapaho and Roosevelt's review](#) recommended that the case be closed with no further action.

The relationship between ski areas and the U.S. Forest Service is somewhat unusual. The resorts pay the agency a cut of their gross revenues each year as the cost of their permit fees. The Colorado total for [the 2011-12 season was \\$16.29 million](#).

[Vail's winter-operation plan](#) with the agency says: "Forest Service personnel will avoid publicly discrediting (Vail Associates) in any way. Any questions of a sensitive nature will be referred to Vail management."

Additionally, any Forest Service "news releases related to incidents or accidents on the ski areas will be coordinated with the Public Relations departments of the involved ski areas."

Fitzwilliams said the statements are there to ensure that both parties have a "professional relationship," and he does not "hesitate in articulating his disagreements" with Vail when they arise.

Heckbert disagrees.

"The Forest Service and ski resorts are business partners," he said. "No one is doing any meaningful oversight. The resorts are free to do whatever they want."

Karen E. Crummy: 303-954-1594, kcrummy@denverpost.com or twitter.com/karencrummy

About the series

Sunday: The system of investigating accidents at ski areas raises questions of thoroughness and accuracy.

Monday: Colorado's ski industry enjoys vast protection from liability.

Tuesday: Just how many people are injured skiing and snowboarding in Colorado is something of a mystery.