



HR Management: Avoiding Adventure:

MARK BRADY—ASSIST. DIRECTOR, UTAH COUNTY PERSONNEL

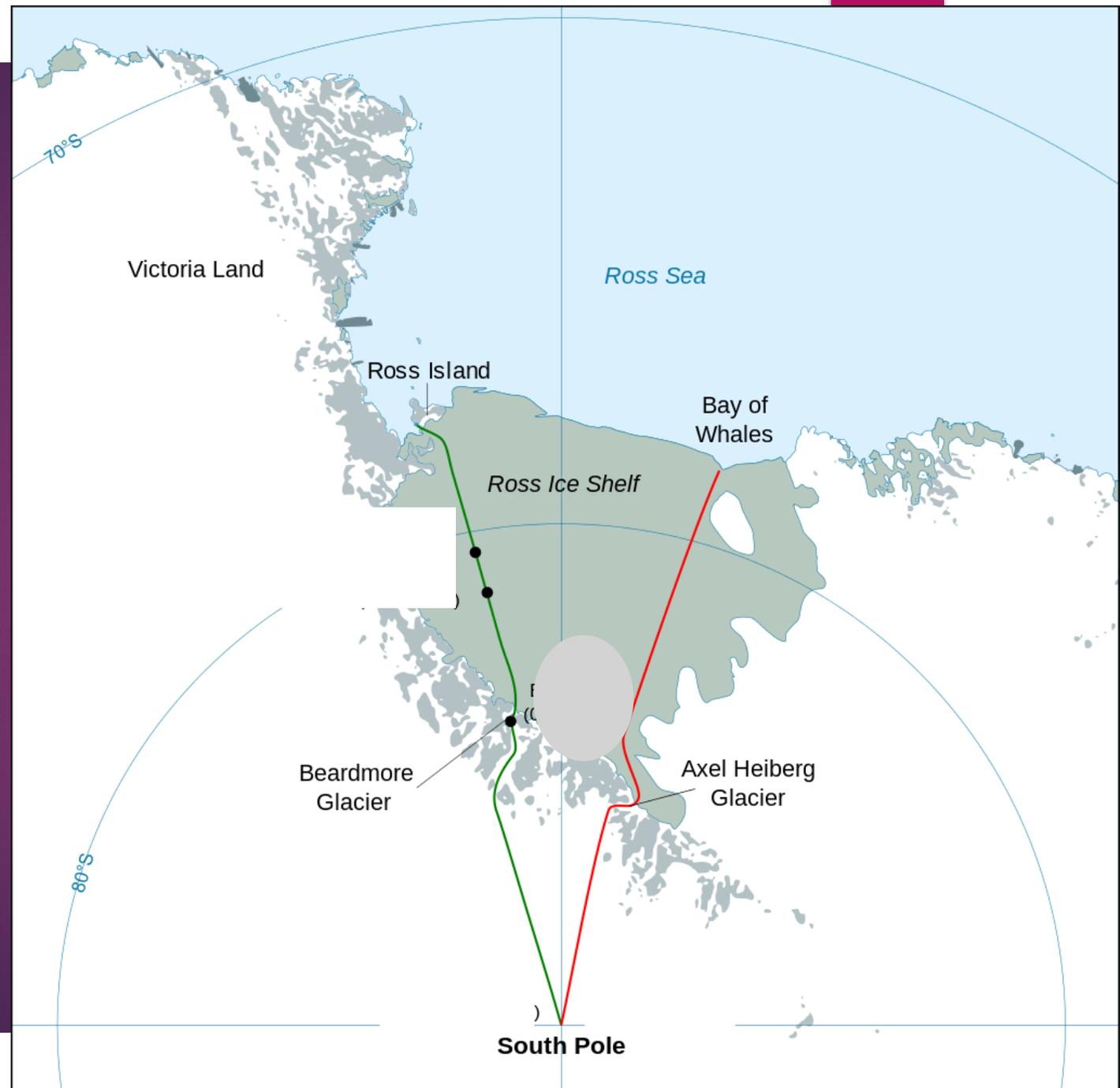
UAC MANAGEMENT CONFERENCE—13 APR 2016

Cautionary Tale

1911-1912



Two Ways to the Pole



Two Ways to the Pole

One Way--Scott

- ▶ Best financed polar expedition ever
- ▶ Motorized Sledges
- ▶ Traditional Sledges
 - ▶ Ponies
 - ▶ Some dogs
- ▶ Well known Trail
- ▶ Combine the Goal of Reaching the Pole with Scientific Research

Another Way--Amundsen

- ▶ Traditional Sledges
 - ▶ Dogs
- ▶ Untried Path
- ▶ Cross Country Ski
- ▶ Only Goal is to Get to the pole and Back

Two Ways to the Pole

- ▶ No Mechanic for the Sledges
- ▶ Leave behind the Expert Skier
- ▶ Nobody learns to ski well
- ▶ Chose the final assault team just before final assault
- ▶ 19 Ponies
- ▶ Fail to inspect sledges
- ▶ Man Haul Rather than dogs
- ▶ Fail to Provide fresh meat
- ▶ Not enough rations for exigency
- ▶ Planned for contingencies—extra supplies
- ▶ Entire Team expert skiers
- ▶ All assault team members known from the beginning
- ▶ 52 Dogs
- ▶ Compass Sledge
- ▶ Sledge Repair expert
- ▶ Higher Calorie Diet
- ▶ Dogs, Provided Fresh Meat

Two Ways to the Pole—Both Teams Make it!



Two Ways to the Pole

- ▶ Arrived at pole 17 Jan 1912
 - ▶ Man hauling requires more energy and men become weaker
 - ▶ Scurvy
 - ▶ 2 men die by mid March
 - ▶ The last three die by the end of March, 1912.
 - ▶ 11 miles from the next supply depot
 - ▶ 30 lbs of rock
- ▶ Arrived at pole 14 Dec 1911
 - ▶ Abundant rations for trip back
 - ▶ Skiing
 - ▶ Fresh meat from dogs
 - ▶ No starvation
 - ▶ No scurvy
 - ▶ No Death
 - ▶ Return to home base depot 7 January. The Trip took 99 days total.





We arrived within 11 miles of our old One Ton Camp with fuel for one hot meal and food for two days. For four days we have been unable to leave the tent - the gale howling about us. We are weak, writing is difficult, but for my own sake I do not regret this journey, which has shown that Englishmen can endure hardships, help one another, and meet death with as great a fortitude as ever in the past. We took risks, we knew we took them; things have come out against us, and therefore we have no cause for complaint, but bow to the will of Providence, determined still to do our best to the last.

Capt. Robert Scott

“ADVENTURE IS JUST BAD PLANNING.”

ROALD AMUNDSEN

© Lifehack Quotes

Keys to Scott's Failure

- ▶ Failure to adequately assess and address the risks
- ▶ Misunderstanding or lack of agreement on goals
- ▶ Ignoring the experience of others
- ▶ Inadequate planning and follow through
- ▶ Inadequate tools
- ▶ Inadequate personnel
- ▶ Failure to provide adequate nourishment
- ▶ Failure to inspect and repair the equipment
- ▶ Poor or ineffective training
- ▶ Poor communication about duties and expectations



The Lay of the Land

Assessing your environment

Categories of Risk

- ▶ **Strategic**—Issues that limit the ability of the organization to achieve the strategic objectives
- ▶ **Compliance**—Activities that are subject to regulation and legislation
- ▶ **Operational**—Risks that affect the effective and efficient work of the organization
- ▶ **Financial**—The Risk of financial loss to the organization

County Executive may:

- ▶ Approve, amend or reject Personnel Rules before adoption.
- ▶ Approve, amend or reject the pay plan.
- ▶ Recommend Personnel Rules

County Departments, Offices or Agencies

(UCA 17-33-7)(2)

- ▶ Establish initial job descriptions
- ▶ Recommend positions/classifications
- ▶ Make final selections for promotions and hires
- ▶ Conduct performance evaluations
- ▶ Discipline employees

Director of Office of Personnel Management

(UCA 17-33-5 and 17-33-7)

- ▶ Advise county legislative and executive bodies on the use of human resources
- ▶ Develop and implement programs for improvement of employee effectiveness
- ▶ Recommend Personnel Rules
- ▶ Design and administer County Pay Plan including salaries, wages, incentives, bonuses, leave, insurance, retirement, and other benefits
- ▶ Design and administer classification plan (final authority)
- ▶ Monitor compliance with EEO and Affirmation Action guidelines
- ▶ Maintain central personnel records

Personnel Rules Shall Provide for:

(17-33-5)(3)(b)

- ▶ Recruiting and selection assuring open competition
- ▶ Establishment of job related minimum requirements
- ▶ Preparation, maintenance, and revision of a position classification plan
- ▶ Keeping records of performance
- ▶ Plan governing layoffs and reductions in force
- ▶ Plan for resolving employee grievances and complaints
- ▶ Establishment of disciplinary measures and appeal processes
- ▶ Establishment of hours of work, holidays and attendance requirements
- ▶ Establishing and publicizing of fringe benefits

Federal Laws: Fair Labor Standards Act

- ▶ FLSA Issues
 - ▶ What are Hours Worked?
 - ▶ All time “controlled and required by the employer” and “pursued necessarily and primarily for the benefit of the employer”
 - ▶ All time employee is “suffered or permitted” to work
 - ▶ Insignificant periods of time outside of working hours may be disregarded (de minimis rule)
 - ▶ Travel Time
 - ▶ Training Time
 - ▶ On-Call Time
 - ▶ No Requirement to provide meal or break periods, vacation pay, sick leave, shift differential, etc.

Federal Laws: Fair Labor Standards Act

- ▶ Exemptions – Who is exempt and what are they exempt from?
 - ▶ Salary Basis (set salary regardless of quantity or quality of work performed)
 - ▶ Salary Level (\$455 per week)
 - ▶ Job Duties
 - ▶ Executives
 - ▶ Administrative
 - ▶ Professionals (Learned or Creative)
 - ▶ Outside Salespeople
 - ▶ Computer Professionals

Federal Laws: Fair Labor Standards Act

- ▶ What it means to be exempt
 - ▶ Overtime pay is not required
 - ▶ Deductions from pay are generally not permitted
 - ▶ Time cards/ record of work hours allowed and encouraged
 - ▶ Be careful—**audits** increasing in this area
 - ▶ Law Enforcement and First Responders--2004 amendments

Tools we use



HR Management Activities

- ▶ Recruitment, Hiring, and Onboarding
- ▶ Job Classification, Analysis and Description
- ▶ Payroll Administration
- ▶ Benefits & Leave Administration
- ▶ Employee Performance, Discipline, and Termination

Recruitment And Hiring



Recruitment and Hiring

- ▶ **Goal:** Hire the most capable who are the best fit for the price offered
- ▶ **Activities:**
 - ▶ Posting/Advertising
 - ▶ Application
 - ▶ Screening
 - ▶ Interviews
 - ▶ Selection
 - ▶ Social Media?
 - ▶ Conditional Offer/Background Check/MVR

Recruitment and Hiring—Bad Outcomes

- ▶ Bad fit
- ▶ Poor performers
- ▶ Bad Behavior/Criminal Activity
- ▶ Turnover
- ▶ Non-Compliance
 - ▶ Federal Laws (Titles VII and other discriminatory practices)
 - ▶ State law
 - ▶ Negligent Hiring
 - ▶ Privacy violations
 - ▶ Regulatory Risk

Recruitment and Hiring—Risk Management

- ▶ Train recruiters and interviewers
- ▶ Monitor changes in regulations and legislation
- ▶ Update forms and paperwork
- ▶ Update policies and procedures
- ▶ Employee Orientation
- ▶ Employee Training
- ▶ FCRA compliance

Job Comp \ Class, Description & Analysis



SCOTT POLAR RESEARCH INSTITUTE

Job Comp\Class, Description & Analysis

- ▶ Goal: Predictable, Fair, Reasonable Pay, Job Requirements and expectations. Reliable information for Budgeting and forecasting.
- ▶ Analyzing Job Requirements to Determine:
 - ▶ Skills,
 - ▶ Knowledge
 - ▶ Abilities
 - ▶ Duties
 - ▶ Compensation
 - ▶ Temporary, Seasonal, Career Service, Career Service Exempt
 - ▶ Independent Contractor, FLSA Exempt/Non Exempt
- ▶ Staffing Plan
- ▶ Plans for Layoff and RIF

Job Comp\Class, Description & Analysis

- ▶ Job Ambiguities Create Performance Management issues
 - ▶ Actual duties do not meet with the Description
 - ▶ Essential functions not identified
- ▶ FLSA Status
- ▶ Permanent “Temporary Employees”
- ▶ ACA
- ▶ ADAAA
- ▶ Equal pay issues—Discrimination
- ▶ Discriminatory Requirements
- ▶ Internal Equity Concerns

Job Comp\Class, Description & Analysis

- ▶ Consistently Update Descriptions
 - ▶ Have the Job Tasks Changed?
 - ▶ Clearly Identify Essential Functions
 - ▶ Coordinate Expectations with Department Management
- ▶ Market Study
- ▶ Internal Equity Analysis
- ▶ Fully Developed Staffing Plan

Payroll Administration



Payroll Administration

- ▶ **Goals:** Orderly, Accurate, Timely pay
- ▶ **Activities:**
 - ▶ Time Entry
 - ▶ Employee Changes
 - ▶ Calculate Taxes
 - ▶ Calculate Deductions
 - ▶ Paychecks/Direct Deposit
 - ▶ Deposit Withheld Taxes
 - ▶ Documentation and Reporting

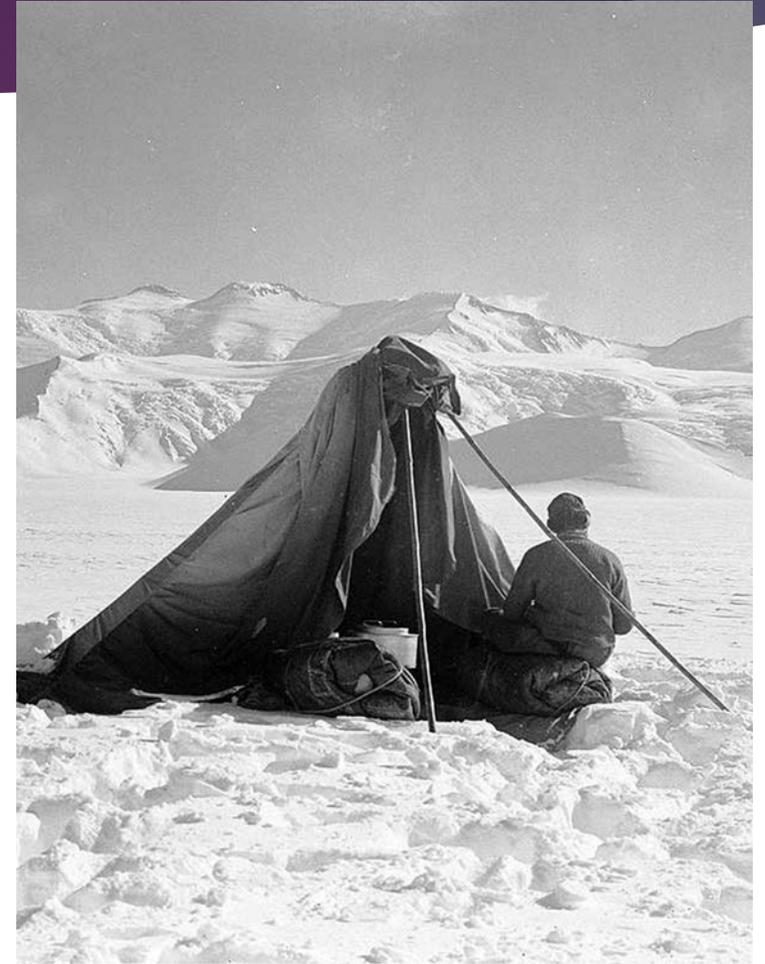
Payroll Administration

- ▶ Payroll Fraud
 - ▶ Advances not paid back
 - ▶ Buddy Punching
 - ▶ Ghost Employees
 - ▶ Unauthorized hours
- ▶ Reporting Failures
- ▶ FLSA Violations
- ▶ Pay Rate Error
- ▶ Calculation errors
- ▶ Erroneous Data for Benefits/Deductions

Payroll Administration

- ▶ Audit
- ▶ Supervisor Approved Time Entry, Overtime, and Pay Change
- ▶ Verified Change Authorizations
- ▶ Change-Tracking Log
- ▶ Error-Checking Reports
- ▶ Calculation Verification
- ▶ Payroll Register Matching to supporting documents
- ▶ Match Time Entry to Employee Lists
- ▶ Documentation

Benefits & Leave Administration



Benefits Administration

- ▶ **Goal:** Incentivize long term employment with the entity by eliminating or mitigating loss due to certain life uncertainties
- ▶ Pension/URS
- ▶ 401k, 457, 401a
- ▶ HRA, HSA
- ▶ Medical --ACA
- ▶ Dental
- ▶ Vision
- ▶ LTD
- ▶ COBRA
- ▶ Life Insurance

Benefits Administration--Risks

- ▶ Enrollment
- ▶ Eligibility, Life Changes
- ▶ External Plan Compliance Regulations
- ▶ Internal Plan Requirements
- ▶ Communication with Employee about the benefit
- ▶ Reporting requirements

Benefits Administration

- ▶ Timely compliance with all reporting requirements—Tax, ACA, URS etc.
- ▶ Seek the expertise and services of Broker, Advisor or Provider in administering the plans
- ▶ Have an employee communication plan and ensure employees are oriented to the plans in terms of restrictions, deadlines, eligibility
- ▶ Carefully review and edit any communications from providers to the Employees

Affordable Care Act

- ▶ Offer minimum essential coverage that is affordable and provides minimum value to full-time employees working at least 30 hours per week.
- ▶ Identify full-time employees based on the ACA definition of full-time (those who average 30 hours of work per week in one month)
- ▶ Set the look-back period to determine full-time status is best based on the nature of the company's workforce.
- ▶ Submit ACA information reporting forms to the IRS

Forms	New IRS Due Date
Forms 1095-B and 1095-C due to employees by	March 31, 2016
Forms 1094-B, 1095-B, 1094-C and 1095-C required to be filed with the IRS <i>if filing on paper</i> by	May 31, 2016
Forms 1094-B, 1095-B, 1094-C and 1095-C required to be filed with the IRS <i>if filing electronically</i> by	June 30, 2016

Source: [ADP](#), based on IRS Notice 2016-4.

Leave Administration

- ▶ **Goals:** Incentivize long term employment with the entity by providing paid leave for illness and injury. Provide paid leave for recuperative time away from the workplace to avoid employee burnout.
- ▶ Sick leave
- ▶ Vacation leave
- ▶ Alternatively ,PTO
- ▶ Overtime/Compensatory Time
- ▶ Mandated Leave Allowances:
 - ▶ ADAAA
 - ▶ FMLA
 - ▶ Workers Compensation
 - ▶ PDA
 - ▶ USERRA

Leave Administration

- ▶ FMLA related issues:
 - ▶ Failure to monitor
 - ▶ Intermittent leave
 - ▶ FMLA Sick leave/Vacation/LWOP
 - ▶ Non Compliance by Employer
 - ▶ Non Compliance by Employee
- ▶ ADA interactive process and Monitoring
- ▶ Sick leave abuse
- ▶ Workers Comp and other leave integration
 - ▶ Return to work program
- ▶ Donated Leave?
- ▶ Failure to track or monitor or enforce LWOP

Leave Administration

- ▶ FMLA: have a policy
 - ▶ Notice and Communication requirements
 - ▶ Audit processes
 - ▶ Mandatory Training and Retraining of Supervisors on FMLA
 - ▶ Consult Legal when disciplining or when leave is close to being used
 - ▶ Follow the Law
 - ▶ Closely monitor and track usage
- ▶ Workers Comp and other leave integration policy
- ▶ ADA
 - ▶ Leave may be a reasonable accommodation—
 - ▶ Engage in interactive process
 - ▶ Monitor

Compensatory Time

- ▶ Available option for state and local governments
- ▶ Must be covered by employment agreement or memorandum of understanding BEFORE the performance of work
- ▶ Employee must be permitted to use time within "reasonable period" if it does not "unduly disrupt" operation
- ▶ Must be calculated at time and a half
- ▶ Cap of 240 hours (160 hours worked) for most employees
- ▶ Cap of 480 hours for law enforcement
- ▶ Must be paid at termination at higher of (a) average regular rate of pay during last three years or (b) final regular rate of pay

Pregnant Employees

- ▶ Not a disability (but complications may be)
- ▶ Apply policies as you would to any other short term disability
- ▶ Employee may work up to date of delivery if able to perform job functions
- ▶ Don't ask employees or applicants about plans to have children/pregnancy status,

USERRA

- ▶ Protect reemployment rights of employees who are called to duty in the Uniformed Services
- ▶ Cumulative five year period of military service (may be more)
- ▶ Applies to service under federal authority, (voluntary, involuntary, active duty, national guard etc.)
- ▶ Notice encouraged, but can't be required in all cases
- ▶ Deadlines for employees Notice of Intent to Return to Work
- ▶ Prompt reemployment required
- ▶ "Escalator" principle applies to promotions, salary increases etc. that employee would have received with "reasonable certainty."
- ▶ No discharge without cause for one year (if 6 months military service)
- ▶ Benefit protections

Employee Performance, Discipline & Termination



Performance Evaluation & Discipline

- ▶ **Goal:** Protect the interests of the County while providing fairness to the employee
- ▶ **Activities:**
- ▶ Policies that spell out unacceptable behavior
- ▶ Performance Appraisals
- ▶ Progressive Discipline:
 - ▶ Coaching
 - ▶ Verbal warning
 - ▶ Written Warning
 - ▶ Suspension, Demotion
 - ▶ Termination

Performance Evaluation & Discipline

- ▶ Evaluation/Performance discrepancies that are at odds with later attempts to discipline
- ▶ Failure to evaluate that leads to ongoing poor performance
- ▶ Failure to document
- ▶ Failure to intervene early to correct bad behavior and performance issues
- ▶ Unequal treatment that leads to claims of discrimination
- ▶ Due Process violations

Performance Evaluation & Discipline

- ▶ Require Performance Evaluations:
 - ▶ Require Adequate performance before step increases
 - ▶ Train supervisors on how to do evaluations
- ▶ Rules should provide a mechanism for skipping steps in progressive discipline
- ▶ Rules should detail process for investigating and discipline of Harassment Claims
- ▶ Distinguish between misconduct and poor performance
 - ▶ Notice to employee of expectations and opportunity improve performance issues
- ▶ Consistency and fairness
- ▶ Employee should have an opportunity to be heard BEFORE discipline is issued.
- ▶ Rules and disciplinary notices should clearly state how, when, and to whom an appeal or request for review may be filed.

Sexual and Other Harassment

- ▶ Policy should
 - ▶ Prohibit and define inappropriate activity
 - ▶ Provide multiple avenues for complaints
 - ▶ Be disseminated to entire workforce, including periodic training
 - ▶ Provide for prompt and thorough investigation (by neutral party)
 - ▶ Provide for appropriate disciplinary action
 - ▶ Prohibition against retaliation

Investigations

- ▶ Decide who best to conduct investigation
- ▶ Act promptly, take seriously
- ▶ Document witness interviews and conclusions carefully
- ▶ Keep as confidential as possible, but don't promise confidentiality
- ▶ Communicate conclusion to affected parties
- ▶ Every employee has duty to cooperate with reasonable investigation
- ▶ Garrity warning if criminal implications

Posting Requirements

- ▶ Prominent locations accessible to employees
- ▶ Wage and Hour (FLSA)
- ▶ EEO consolidated
 - ▶ (ADEA, ADA, EPA, Title VII, etc.)
- ▶ FMLA
- ▶ USERRA
- ▶ Federal Contracts
- ▶ State Worker's Compensation
- ▶ State Unemployment

Wrap Up





Had we lived I should have had a tale
to tell of the hardihood, endurance and
courage of my companions which
would have stirred the heart of every
Englishman. These rough notes and our
dead bodies must tell the tale.

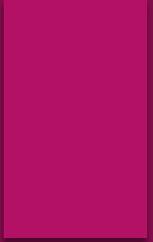
Robert Falcon Scott

The Most Common Sources of Risk

- ▶ Failure To comply with State or Federal laws and regulations
- ▶ Failure to comply with own policies
- ▶ Failure to communicate necessary information in the form of requirements, duties, and expectations
- ▶ Failure to consistently apply the rules within the organization

Most Useful Tools for Reducing Risk

- ▶ Understand the Hazards associated with each area of HR
- ▶ Education and Training at all levels of the organization
- ▶ Auditing and updating Policies and Procedures
- ▶ Updating Job Descriptions
- ▶ Communication
- ▶ Consistent application and enforcement of the rules
- ▶ Getting and applying legal and other expert advice
- ▶ Documenting what you have done
- ▶ Insurance



Resignation to misfortune is the only attitude, but not an easy one to adopt. It seems undeserved where plans were well laid and so nearly crowned with a first success. I cannot see that any plan would be altered if it were to do again, the margin for bad weather was ample according to all experience and this stormy December - our finest month - is a thing that the most cautious organiser might not have been prepared to encounter.

Robert Falcon Scott



► “I may say that this is the greatest factor: **the way in which the expedition is equipped, the way in which every difficulty is foreseen, and precautions taken for meeting or avoiding it.** Victory awaits him who has everything in order, luck, people call it. **Defeat is certain for him who has neglected to take the necessary precautions in time, this is called bad luck.**”

— Roald Amundsen

Good Luck

