

The role of prior accident investigations in the push toward criminal liability in the U.S.: a rhetorical analysis

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Abstract

Members of the wildland fire community in the United States are concerned about the potential chilling effect of recent court cases on experienced leaders' future willingness to accept command assignments. In the most recent test of Public Law 107-203, the U.S. Attorney for the Eastern District of Washington has brought federal criminal charges against the Incident Commander (IC) of the 2001 Thirtymile Fire, a full five and a half years after the incident. The official Forest Service response has been to remain silent, so as to not interfere in Justice Department proceedings. However, using a rhetorical communication analysis, this paper shows how the agency's post-accident rhetoric over the past thirty years may have contributed to the current push toward criminal liability in firefighter deaths. Using tools from classical rhetoric, the paper analyzes how the typical three-step process of recovery from fatal accidents (accident investigation, management evaluation, and public memorializing) has segregated individual accidents and privatized errors as internal matters for managerial control. While this strategy has been arguably successful in assigning meaning to painful events and in thwarting external regulation, an analysis of public responses to four fires (South Canyon Fire, Thirtymile Fire, Cramer Fire, and Esperanza Fire) reveals how each subsequent accident not only creates a new public relations crisis but also unravels the established meaning(s) of the previous fire(s). This has resulted in the rhizomic search for someone to blame. Of the various parties targeted to date (fallen firefighters, fire management, and now ICs), ICs may be the most vulnerable due to the ephemeral nature of the Incident Command structure (as compared to permanent agency structure, for example). This analysis has three implications for Forest Service internal and external communications. To the extent that the agency's own rhetoric has contributed to the current push for criminal liability, the Forest Service should openly address the potential chilling effect of PL 107-203 upon firefighters' willingness to serve. Before the next incident occurs, the agency should also take steps to establish what James Reason calls a "just" culture, and to better manage public expectations about the hazards of firefighting.

Proposed oral presentation for Thematic Session 6, "Safety in wildland fire suppression."

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