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## How Effective is Your Safety Committee? “It’s About Reducing Risk, and Supporting Best Practices”

By Ryan Gallik, Firefighter/Paramedic, EMT-B, EMT-P, FOI, FII  
City of St. Cloud Fire Rescue Department



How effective is your Safety Committee? Do you have specific knowledge on Industry based laws and regulations as it pertains to Safety & Health in respected fields such as Fire Service? In my professional opinion, the Fire Service field in Florida should be grateful for having strict laws on Firefighter Safety & Health.

The Florida State Statutes provide some insight on specific laws and regulations that Fire Service members shall follow. By following and supporting these *mandated laws* you can *reduce risks*, while decreasing workers compensation claims and cost and eventually getting a better modification rate.

Under the Florida State Statutes, we have “Florida Firefighter Occupational Safety & Health Act” which is Part V of Chapter 633 (FSS 633.502- 633.536). The Statutes also show that it supports 29 CFR OSHA 1910.134 which covers the Respiratory Protection Plan which we’ll touch base on later in this article.

It’s my opinion that organizations fail to remember this is a **code of federal regulation**. In addition to the State Statutes, there’s specific Florida Administrative Codes that Fire Departments must follow. Having this industry specific knowledge base will assist you in ultimately reducing Firefighter injuries, illnesses, occupational disease and/or death.

### Florida Firefighter Employment Law

Florida Administrative Code, “69A-62” is the Florida Firefighter Employment Standards. For instance, FAC 69A-62.042 states “A firefighter employer shall establish, maintain, and administer a safety committee in the workplace. A firefighter employer of fewer than twenty firefighter employees may appoint a Safety Coordinator in lieu of a Safety Committee”.

The most important Florida Administrative Code that I encourage you to review is FAC 69A-62.033 *Recordkeeping Responsibilities of Firefighter Employers*. This Administrative Code will not only ensure compliance with the State, but will allow for data collection on firefighter injuries, illnesses, occupational disease, or death. By reviewing the data in previous years, we can now see trending, begin implementing safe guards, training, and controlling the risks we’ve identified.

## Fourth Circuit Court of Appeals Holds that the Use of a Taser Against an Emotionally Disturbed, Passively Resisting Subject is Unconstitutional

By J. David Marsey, Esquire - Rumberger, Kirk & Caldwell



The Fourth Circuit Court of Appeals recently held<sup>1</sup> that an officer's use of the drive-stun Taser technique on an emotionally disturbed, passively resisting subject of a civil commitment order was unconstitutional. Although finding the use of force unconstitutional, the Court affirmed summary judgment in favor of the officer based on qualified immunity because the law was not clearly established, thus failed to place the officer on notice that his conduct was unreasonable.

In this case, law enforcement officials attempted to take the subject of a civil commitment order into custody who was seated, grasping a pole and passively resisting by refusing to move. Only moments after receiving confirmation of the order authorizing them to take the subject into custody, and without attempting to obtain compliance through lesser means, an officer repeatedly tased the subject using the drive-stun technique.

The technique not only failed, but increased the subject's resistance. He was ultimately secured in handcuffs, but almost immediately, suffered a medical emergency and died shortly thereafter.

In reaching its decision, the Circuit Court specifically analyzed the objective unreasonableness of the use of force under these circumstances, citing, among other things: (1) the failure to attempt to communicate or negotiate; (2) the failure to attempt to gain compliance using lesser force techniques; (3) the absence of suspicion of any criminal conduct; (4) the absence of any threat to officers or citizens; (5) the absence of any active resistance, fighting or attempt to flee, and (5) the disproportionality of the Taser application under these facts. The Court's conclusion that the use of a Taser was unreasonable force in response to resistance that did not raise a risk of immediate danger, is consistent with its treatment of officers' other tools of compliance. Simply stated, the Court "declined to equate conduct that a police officer characterized as resistance with an objective threat to safety entitling the officer to escalate force."

Although the holding of this case is narrowly tailored to its specific facts, it is an important one because it provides guidance for officers and demonstrates the need to communicate with all suspects, if possible, prior to the application of force. While the Taser has proven a valuable and effective officer safety device, it does not serve as a substitute for communication or lesser force techniques to obtain compliance in static situations without immediate risk to officers, citizens or subjects. Communication is often the best weapon in obtaining voluntary compliance and its effective use in nonviolent, non-emergency situations cannot be overstated.

<sup>1</sup> *Armstrong v. Village of Pinehurst, et al.*, Case No. 15-1191 (4th Cir. 2016).

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