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Dodge County Highway Dept

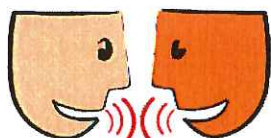
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June
Is
National
Effective
Communication
Month

As professionals, one of our biggest obstacles is communicating with our team effectively.

Effective communication is the ability to communicate clearly and listen well to promote understanding and a sharing of ideas and information.



60% of communication is portrayed by facial expression!

LAW ENFORCEMENT AND CORRECTIONS

By Terry Baxter, Law Enforcement and Safety Specialist

Police Reform

May 25, 2021, marked the one-year anniversary of the death of George Floyd which began a mass movement calling for changes in the way law enforcement agencies police society. There have been other notable deaths that occurred due to law enforcement actions, but Floyd's death sparked a nationwide outcry that have many states enacting legislation focusing on chokeholds/neck restraint restrictions, use of force policies, duty to intervene, de-escalation and increasing training hours and addressing law enforcement misconduct just to name a few.

There has been discussion, and in some states have already authorized the cutting of law enforcement budgets and diverting monies to social service and community-based programs. Removing calls for service involving certain mental health issues or partnering officers, where a mental health professional who would respond during a mental or behavioral health crisis. Not saying that having mental health professional at the ready is a bad thing, but in reality, smaller and rural areas do not have the means or support for those type of professional services, forcing many officers not equipped to properly address the issue.

The bottom line what is being seen nationwide will eventually cause mandatory policy changes, which we have already begun to see, and as we move forward will impact how law enforcement agencies operate when officers encounter critical situations.

LB51 is moving forward after several amendments, which as many of you are already aware, increases training requirements, requires duty to intervene policy, bans chokeholds and cardioid restraints except when deadly force is authorized and addresses new hire restrictions.

You could clearly see the handwriting on the wall from the daily publicized violent protests and the way society was calling for more accountability and transparency from lawmakers, that changes were in the works and Nebraska was not immune from public outcry. Seeing and believing this was on the horizon, NIRMA revised its use of force policy early last fall adding policy language relating to de-escalation and duty to intervene. We also partnered with Legal and Liability Risk Management Institute (LLRMI) and provided to our members de-escalation and Implicit Bias trainings.

America is watching and wrongful police actions are being publicized and criticized, so it is essential that agency policies are up to date, but also increasing the quantity and the quality of training programs.

Loss Prevention and Safety

For more information
or to request training
involving
law enforcement
and/or corrections
operations., contact

Terry at:

terry@nirma.info,

or

402-686-9332



Police Reform *continued*

If your training is inadequate, it will reflect negatively on your officer's critical thinking skills and performance.

Whether you believe the call for police reform was caused from institutional and cultural failures or from a few problematic officers that tainted the integrity of this profession, change is inevitable, and we must adapt to the change. I realize that not everyone agrees with change and many feel this will cause a hardship to their organization, but again it all boils down to accountability and transparency. My take, this is a major step to improve the integrity of this profession nationwide.

GENERAL SAFETY

By Chad Engle, Loss Prevention and Safety Specialist

Generator Safety

Many of NIRMA's member county courthouses and other buildings are equipped with emergency generators that allow them to continue serving their constituents during a power outage. As with all electrical devices, generator safety is paramount. Improper installation and use of a generator can lead to property damage, injury or even death.

Your maintenance person should contact your local electrical utility to determine what requirements they have. The Lincoln Electric System (LES) recommends the following for generator safety:

- The only safe – and legal – way to connect a generator is through a properly installed "double throw switch." Contact an electrician to learn more.
- Generators should be installed by a qualified electrician and bear the mark of a nationally recognized testing laboratory, such as UL, Intertek or CSA.
- You are required to notify LES of your generator installation so LES can approve the final wiring before you put the generator into service.
- Read all operating instructions and manufacturer warnings before using the equipment. If the information is unclear, contact the manufacturer or dealer.
- Connect only those appliances needed during an outage directly into the generator.
- Your city or county building department must inspect any generator that is permanently installed.
- Never operate a generator while standing in water.
- Never operate a generator inside enclosed or partially enclosed spaces, including your home or garage.
- Install battery-operated CARBON MONOXIDE ALARMS or plug-in alarms with a battery backup.
- The Consumer Product Safety Commission recommends generators be positioned at least 20 FEET from doors, windows, and vents to prevent carbon monoxide from entering buildings.
- Make sure your generator is properly grounded and used with a Ground Fault Circuit Interrupter, or GFCI.
- Generators are temporary power sources and should not be used as a permanent solution.
- NEVER connect generators directly to household wiring without first installing a transfer switch. This prevents back feeding which could injure utility workers making repairs.
- Use only three-pronged plugs that are rated for the intended load.
- Do NOT overload the generator.

Loss Prevention Department

We're on the Web

<https://nirma.info>

phone
402-742-9220

fax
402-742-9230

toll free
800-642-6671

chad@nirma.info

tim@nirma.info

terry@nirma.info

pat@nirma.info

Safety

is a
team
game
that
requires
everyone's
involvement.



Generator Safety *continued*

NIRMA's experience with electrical damage claims relating to generators has taught us a couple things. It is important that someone be trained in how to properly use the generator. Improper use of the generator can cause damage to sensitive electrical equipment such as radios and computers. Generators have settings that should be set based on the intended use and the type of equipment the generator is powering.

It is also important to be certain the generator you choose is intended to work with the type of equipment you will be powering. Some generators do not work well with sensitive electronic equipment. Be sure to consult with a qualified electrician and to notify your local electrical utility provider of your intent to install a generator. If you already have a generator installed, it would behoove you to have it checked by a qualified electrician to ensure it will not damage sensitive electrical equipment when put into service.

HIGHWAY DEPARTMENT

By Tim Baxter, Road Safety and Loss Prevention Specialist County Line Interlocal Road and Sign Maintenance Agreements

From time to time, an accident will occur on a shared county line road. Road department management should review and ensure your county line road maintenance and signing interlocal agreements are up to date and that they are in place on all sides of your county. Having good, well written county line interlocal agreements not only improves safety for the motoring public but also reduces liability for involved counties should an accident occur on a county line road and a claim or lawsuit be filed.

Should an accident occur on a county line road, both counties could be sued for a maximum one million dollars per occurrence. Ensure you are addressing road maintenance AND signing responsibilities on county line roads. Include language that pertains to driveway approaches, culverts, bridges, and other drainage structures as well. Too often, when signing is not addressed in a clear written agreement, one county thinks the other county is responsible for signing and no sign maintenance is performed, opening both counties up to liability.

Many times, agreements have been in place for long periods of time without updates or counties have never had county line road and signing maintenance agreements. Review your county line interlocal agreements for proper maintenance and signing responsibilities and ensure all issues are addressed as to who will maintain what. It is typically easiest for each county to maintain and sign specified stretches of the road, including the entire right-of-way on both sides of the road for the assigned stretches. Any roads or signing issues that are left out of the agreement could be detrimental to a case.

Make sure the proper hold harmless, indemnification, and liability insurance language is in the agreement. Additionally, make sure that you include all the provisions required by the Interlocal Cooperation Act at Neb. Rev. Stat. §13-804(3) and (4), as applicable.

The same goes for county/township road maintenance agreements. Ensure both parties are clear as to which roads counties maintain and which roads



**Employment
Practices
Seminars
August 2021**

The seminar locations:

August 4

Norfolk – Divots
Conference Center

August 5

Lincoln – Champions
Club

August 13

Kearney – Holiday Inn

August 26

Geing – Civic Center

August 27

Ogallala – Haythorn
Ranch

Presenters:

Pam Bourne and
Ashley Connell, labor
law attorneys with
Woods Aitken, LLP

**Mark Your
Calendars!**

**County Line Interlocal Road and Sign Maintenance
Agreements – continued**

townships maintain. Attach a map, made part of the agreement, highlighting which roads are whose responsibility for both county/township and county/county road maintenance agreements to eliminate any potential for confusion or uncertainty.

A recent claim involved a fatality accident on an east-west county line road that became muddy and slippery due to a rainstorm. A driver out spraying fields went onto this road in a semi-truck with flatbed trailer carrying water tanks. Although no one witnessed the accident, it appeared from post-accident photos that the driver slid off the traveled surface of the road, and the semi cab tipped over onto its top in the ditch, injuring the driver, who ultimately died. The widow of the driver filed a lawsuit against only the county on the south side of the road, alleging that the cause of the accident was insufficient gravel on the surface of the road and/or a failure to place a sign warning that the road was slippery when wet.

However, according to the two counties' interlocal agreement, the county line road was maintained by either the northern county or the southern county in alternating assigned three-mile stretches. The location of this accident happened to be on a stretch of the road that was solely maintained by the county to the north, not the county to the south. Both counties fully cooperated in the defense of the claim, and the defense attorney assigned by NIRMA was able to present evidence in court demonstrating: 1) that the plaintiff had sued the wrong county because the duty to maintain and sign had been entirely delegated by contract to the northern county, and 2) that sovereign immunity applied to bar the claim under the "conditions caused by weather" and "discretionary function" exemptions in the Political Subdivisions Tort Claims Act, such that it would be futile to sue the other county. The records of the county on the northern side also showed that its employees were adequately carrying out maintenance and signing on the stretch of road where the accident took place. The case was dismissed in a summary judgment. But without the interlocal agreement and the excellent county employees who faithfully followed its terms and kept good documentation of the road maintenance performed, it would have been a much more complicated and difficult claim to defend.

NIRMA attorneys have recently updated our 2012 sample county line road interlocal agreement for maintenance and signing, and a copy is attached. It is encouraged that you replace your old agreements with the new, updated version on all your shared county line roads. Always have your county attorney review any and all agreements prior to adoption. If you do not have county line interlocal road and sign maintenance agreements in place, contact me and I will assist in that process.

Remember to attach a highlighted map of the roads involved which should be an integral part of the agreement. This highlighted map must coincide with the written road descriptions in the agreement.

Please contact Tim if you have any questions pertaining to this topic at 402-310-4417 or tim@nirma.info.

"Education is the power to think clearly, the power to act well in the world's work, and the power to appreciate life." – **Brigham Young**