



# Safety Shorts

## General Safety, Highway, & Law Enforcement

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## December

“As the year wraps up, remember that your potential is limitless, and your dreams are within reach.”

NIRMA staff would like to thank you for a great 2024 and wish you a safe and happy New Year!

### **GENERAL SAFETY**

**By Chad Engle, Loss Prevention Manager and Safety Specialist**

#### **2024 Money for Minutes Reminder**

Once again, your friendly reminder to be sure to hold your fourth quarterly safety committee meeting for 2024, if you have not done so yet. Safety committees have until 5:00 pm Central, January 31st, 2025, to submit 2024's safety committee minutes if you would like to be considered for the 2024 Money for Minutes drawing.

This year NIRMA will be awarding nine (9) \$500.00 awards and one (1) \$2,500.00 award. The nine awards will be randomly selected from the group of committees that met the Money for Minutes eligibility requirements, while the \$2,500.00 award will be presented to the safety committee that demonstrated the highest level of commitment to combating employee injuries and claims through their safety and loss prevention efforts, including, but not limited to, their use of NIRMA's Best Safety Practices for Members. The winner of this award will be determined through a committee review by staff serving the NIRMA program.

While the number of, and amount of, awards have increased over time, the Money for Minutes qualifying criteria have remained consistent:

1. Conduct at least one safety committee meeting per quarter during the calendar year.
2. Investigate and discuss all incidents, events, injuries and accidents that did or could have led to a claim and develop recommendations about how to prevent recurrence of similar incidents.
3. Submit minutes (to [chad@nirma.info](mailto:chad@nirma.info)) from each of the quarterly meetings containing the loss prevention recommendations to NIRMA for review.

The award winners will be announced in February of 2025. The awards are intended to be used for loss prevention and safety related purposes. Good luck to all the counties and agencies that committed to protecting their employees, their county or agency and the rest of the membership from preventable losses, your efforts do not go unnoticed or unappreciated!

### **Wet Weather and Wet Floors**

Courts in Nebraska have found that claims resulting from water being tracked into buildings due to rain or snow are not considered "temporary conditions caused by weather." The legal consequence of these court findings is that political subdivisions do not have sovereign immunity from claims for injuries arising from this type of condition in your county buildings.

Instead, courts have found that building owners can be liable for injuries in these situations because the proximate cause of a fall and related injuries is the building owner's failure to maintain the floor in a safe condition and the failure to warn the public of a hazardous condition. Those failures are considered separate from the condition of the floor, because building owners have a duty of care to visitors that may be breached if they do not reasonably respond to the weather's foreseeable impact on flooring in areas where there is public foot traffic.

What does this mean to NIRMA members? It means that when weather conditions outside lead to hazardous conditions inside, we have a duty to maintain our floors in a safe condition, which can be fulfilled through ongoing inspections, ongoing dry mopping and water removal to keep them as dry as possible. The use of "Wet Floor" signs is recommended when necessary to warn the public of the possible hazard. Please remember that the "Wet Floor" signs alone will likely not protect the property owner from a premises liability claim. Entrance rugs and mats are highly effective as well. Keep in mind that rugs and mats need to lie flat on the floor and not create an additional trip hazard.

If your county or agency does experience a slip or trip and fall incident, please conduct a timely investigation to document the facts surrounding the event (with photographs) and notify NIRMA as quickly as possible. Feel free to reach out to me at [chad@nirma.info](mailto:chad@nirma.info) or (402) 450-2417 with questions or training.

# **HIGHWAY DEPARTMENT**

**By K C Pawling, Road Safety and Loss Prevention Specialist**

## **Crucial Tasks for Winter: Daily Walk-Around Inspections of Equipment**

Daily walk-around inspections are a crucial practice in maintaining the health, safety, and efficiency of equipment *AND* employees. These simple yet highly effective inspections help prevent costly breakdowns, ensure workplace safety, and improve operational productivity. Daily inspections are always important, but they could be critical in the winter. Freezing weather exposures are nothing to overlook. The following are nine reasons why you should be conducting *DOCUMENTED* daily walk-arounds.

### **1. Prevents Equipment Failures and Breakdowns**

Regular walk-around inspections are a proactive approach to equipment maintenance. By checking key components of machinery each day, operators can catch minor issues before they turn into major problems. A small oil leak, a loose bolt, or a worn-out part can be found early and fixed, preventing unexpected breakdowns that might halt operations or require expensive emergency repairs. This proactive maintenance strategy helps extend the lifespan of the equipment and reduces unplanned downtime.

### **2. Improves Safety and Reduces Accidents**

Safety should always be a top priority when operating heavy machinery or equipment. Daily inspections help find safety hazards such as faulty brakes, malfunctioning lights, or uneven wear on tires, which could pose risks to operators and others in the vicinity. By finding and addressing these risks before they escalate, walk-around inspections help prevent accidents, injuries, or even fatalities. For example, ensuring that fire extinguishers, warning signals, and hydraulic hoses are in good condition is vital to supporting a safe working environment.

### **3. Enhances Efficiency and Productivity**

When equipment is properly maintained and functioning at its best, it runs more efficiently. Routine inspections allow operators to identify issues that may be causing the equipment to work less efficiently, such as clogged filters, low fluid levels, or dirty parts. Addressing these issues early can keep the equipment running at its best performance levels, reducing the likelihood of breakdowns that disrupt work. Increased reliability and reduced downtime can lead to more consistent and productive operations.

### **4. Reduces Repair Costs**

Routine inspections can significantly reduce repair costs over time. Finding minor issues early on and performing preventative maintenance is much less expensive than waiting until a major breakdown occurs. Regular checks on oil levels, hydraulic fluid, air filters, and tire pressure, among others, can prevent components from wearing out prematurely, saving the county from expensive replacements and repairs. Furthermore, catching issues before they worsen can help avoid the costs associated with emergency repairs and equipment replacements.

### **5. Fosters a Culture of Responsibility**

I think that most of us want to contribute to the success of our workplace. Incorporating daily inspections into the daily routine can encourage a culture of responsibility and accountability.

When employees are actively involved in monitoring equipment conditions, they can take ownership of the equipment *AND* their work environment. Regular inspections also foster better communication between operators, maintenance teams, and managers, ensuring that everyone is on the same page about the equipment's status.

## **6. Helps with Planning for Maintenance and Budgeting**

Daily inspections provide valuable data on the condition of equipment, which can be used to plan future maintenance and manage maintenance budgets effectively. By tracking wear-and-tear patterns, companies can expect when parts may need replacement or when major overhauls are necessary. This data helps management plan better for downtime, parts procurement, and labor costs, ensuring that maintenance is done at the right time and within budget. It can also prevent unnecessary repairs or the premature replacement of equipment parts.

## **7. Supports Better Decision-Making**

A daily inspection routine generates a wealth of information about the performance and condition of equipment. This data can help managers and supervisors make more informed decisions about when to repair, replace, or retire equipment. Understanding the true condition of each piece of machinery allows counties to make decisions that align with their operational goals and financial priorities. Rather than relying on guesswork or reactive decision-making, a system of daily checks enables smarter, data-driven choices.

## **8. Improves Worker Morale**

Who doesn't need a boost in morale during the winter, right? When employees know that the equipment they use is well-maintained and safe, it boosts morale and confidence. Daily inspections prove that the county values the safety and well-being of its workers, and this can contribute to a more positive work environment. Operators and maintenance personnel are more likely to take pride in their work when they feel their equipment is dependable, reducing frustration and increasing job satisfaction.

Daily walk-around inspections may seem like a small task in the grand scheme of operations, but their impact can be immeasurable. The time spent on these inspections, especially during the winter, can save counties money, prevent accidents, and ensure that equipment operates at its best. It's a simple, low-cost strategy that provides high returns in terms of safety, productivity, and efficiency. Any time we can prevent freezing weather exposure, we should do so.

If there is anything I can help you with, do not hesitate to contact me. I can be reached at 402-310-4417 or [kcpawling@nirma.info](mailto:kcpawling@nirma.info).

# **LAW ENFORCEMENT AND CORRECTIONS**

By Todd Duncan, Law Enforcement and Safety Specialist

## **Use of Force in Jails- The Objective Reasonableness Standard**

This month's Safety Short provides guidance on the legal liability associated with the use of force in jails, emphasizing the standards established in the Supreme Court case *Kingsley v. Hendrickson*<sup>1</sup> (2015). Corrections officers must understand these principles to ensure compliance with constitutional standards and minimize legal risks.

### **The Due Process Clause (14th Amendment)**

In *Kingsley*, the U.S. Supreme Court established the standard for evaluating claims of excessive force against pretrial detainees under the 14th Amendment's Due Process Clause. The case arose when Michael Kingsley, a pretrial detainee, alleged that jail officers used excessive force by forcibly restraining him and applying a Taser while he was in custody. The Court ruled in Kingsley's favor, holding that claims of excessive force by pretrial detainees are to be assessed using an **objective reasonableness standard**, which focuses on whether the force used was objectively reasonable under the circumstances, regardless of the officer's subjective intent. This decision clarified that the protections for pretrial detainees differ from those for convicted prisoners, who are covered by the 8th Amendment. *Kingsley* underscores the need for corrections officers to carefully consider the proportionality, necessity, and reasonableness of force used in jails, as liability does not depend on intent but on the objective nature of their actions.

### **Objective Reasonableness Standard:**

The Court ruled that the use of force against a pretrial detainee must be assessed from the perspective of a reasonable officer at the scene, considering the circumstances, without the benefit of hindsight. Factors the courts will consider in light of *Kingsley* when evaluating whether a use of force on a pretrial detainee was reasonable include:

1. **The relationship between the need for force and the amount of force used:**  
Evaluate whether the level of force applied was proportional to the situation, considering the need to maintain order or safety.
2. **The extent of the detainee's injuries:**  
Consider the physical impact of the force used and whether the injuries were avoidable under the circumstances.
3. **The threat reasonably perceived by the officer:**  
Assess whether the detainee's actions posed an immediate threat to the safety of the officer, other detainees, or facility staff.
4. **Efforts made to temper or limit the use of force:**  
Examine whether the officer took steps to de-escalate the situation or minimize the amount of force used.
5. **The severity of the security problem at issue:**  
Determine the seriousness of the problem the officer was addressing, such as whether the detainee was actively resisting or attempting to flee.

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<sup>1</sup> 576 U.S. 389 (2015)

6. **The availability of alternative actions:**

Consider whether other, less forceful options were feasible under the circumstances.

7. **The degree of resistance by the detainee:**

Evaluate the nature of the detainee's resistance, whether it was active, passive, or non-existent.

**Legal Implications and Risk Management Recommendations**

1. Prioritize de-escalation whenever possible.
2. The shift in focus to whether actions were objectively reasonable may mean that your good intentions won't be enough to avoid incurring legal liability.
3. Jail policies and practices must align with the *Kingsley* standard. While *Kingsley* focused on force used against pretrial detainees, it is recommended from a liability and practical standpoint that policies require officers to follow the objective reasonableness standard in all uses of force against detainees, regardless of their legal status (pretrial vs. convicted).
4. Officers should receive regular, documented training on de-escalation techniques, alternatives to force, and appropriate responses to resistance.
5. All use-of-force incidents must be meticulously documented, including the reasoning for force, efforts to de-escalate, and the detainee's behavior. Proper documentation protects against liability by demonstrating objective reasonableness.
6. Always assess the necessity and proportionality of force before acting.
7. Follow departmental use-of-force policies strictly.
8. Seek immediate medical attention for detainees following any use-of-force incident.

**Conclusion**

Understanding and adhering to the *Kingsley* standard is critical to ensuring lawful, ethical, and effective operations in jail settings. Compliance not only protects detainees' constitutional rights but also shields corrections officers and agencies from legal and financial liability. Regular training, adherence to policy, and thorough documentation are essential to achieving these goals.