

NIRMA's Safety Shorts

General Safety, Highway & Law Enforcement

2021 APR 14 PM 4:38
RECEIVED
Dodge County Highway Dept

COPY



April Is National Humor Month

Laughter is a great thing — that's why we've all heard the saying, "Laughter is the best medicine." There is strong evidence that laughter can actually improve health and help fight disease. Studies show that laughter could be the simplest and surest way to reduce stress and improve physical and mental health.



HIGHWAY DEPARTMENT

By **Tim Baxter, Road Safety and Loss Prevention Specialist**

Importance of Using Proper Personnel Lifting Devices

Over the years, NIRMA has received a number of claims involving workplace injuries that easily could have been avoided if proper care and attention to detail would have been exercised.

Included in these injury and claim reports have been incidents where employees were instructed to perform tree trimming or other elevated work tasks without the proper personnel lifting devices.

When asked why these instructions were given, a common answer is, "We've always done it that way." This statement should never justify following unsafe work habits or practices.

The only safe way to perform elevated tasks is to use equipment and a personnel cage specifically designed and intended for the types of jobs that have the approval of the Occupational Safety and Health Administration (OSHA) and has been inspected by a registered engineer. The operator's manual will tell you if the piece of equipment is approved for lifting personnel. It is important to note here the bucket of a front-end loader is not approved.

OSHA Standard 1926.451(c)(2)(iv) clearly states, "Front end loaders and similar pieces of equipment shall not be used to support scaffold platforms unless they have been specifically designed by the manufacturer for such use."

Front end loaders are not specifically designed for lifting personnel. If an operator's manual states "Never use the work tool for a work platform," then it must not be used to elevate personnel. If the manual is silent on the personnel lift issue, it is the obligation of the employer to determine if the equipment was designed specifically for lifting personnel. The employer would need to find out directly from the manufacturer if it was designed to do so, or if that information is not available the employer should obtain a certification from a certified professional engineer that the equipment was indeed designed for personnel lifting.

Trimming or removing trees can be very dangerous, even when the proper personal protective equipment and an approved employee lift are used. Instructing employees to use a lift, such as the bucket of a front-end loader, to reach high branches or limbs should never be an option. Instead, consider getting price quotes from a professional tree service. It likely will be much less expensive and disruptive than a workers' compensation claim if an employee is seriously injured.

Welcome to the eRiskHub

Suspect a breach?

Contact your county Claims Representative now!

We have the tools to help you prevent & prepare!

Click for CRL county-specific Security & Privacy Awareness Training.

You'll find a wealth of information about how to protect your organization from cyber threats and—if an incident should occur—how to minimize the damage.



Importance of Using Proper Personnel Lifting Devices - *continued*

While OSHA regulations do not technically apply to counties, NIRMA recommends member counties meet or exceed OSHA standards. NIRMA's Best Safety Practices for Counties also recommends members "use appropriate safety equipment at all times" and "follow nationally recognized safety standards as a guide."

Before directing an employee to perform work in an unsafe manner, first think about the consequences should something happen and the irreparable harm that could be done, then don't give unsafe directives.

If you have questions about personnel lifting devices or performing elevated work tasks, please contact me. Be Safe.

GENERAL SAFETY

By Chad Engle, Loss Prevention and Safety Specialist

The Importance of Cybersecurity

Cybersecurity is the state of being protected against the criminal or unauthorized use of electronic data, or the measures taken to achieve this. What is your county or agency doing to protect your electronic data? I am not an information technology specialist, so I will leave the firewall, antivirus and malware detection recommendations to them. I want to discuss the common cybersecurity threats that our members face and what each employee can do to avoid falling prey to those folks that are trying to gain access to your protected electronic data.

Ransomware is a form of malware that encrypts a victim's files, rendering them unusable. The attacker then demands a ransom from the victim to restore the data upon payment. Ransomware is commonly delivered via an attachment in an email that appears to be from a person, organization or business you would trust. This is known as phishing. Ransomware is becoming very lucrative for hackers.

An article published online by *Infosecurity Magazine* states that local government organizations are most frequently targeted by ransomware. They referenced a study by Barracuda Networks that found that 44% of the global ransomware attacks that had taken place in 2020 were aimed at municipalities and that 15% of those municipalities had confirmed they have made ransom payments.

Cybercriminals also target the payroll accounts of local government and municipalities. Cybercriminals use the same phishing techniques or attempt to break passwords to gain employee's credentials that are then used to access payroll accounts. Our own NIRMA claims staff is currently working with a member that suffered a loss of approximately \$1.6 million due to a hacker using a payroll diversion scheme. It is believed that access was gained via a hacked password.

To mitigate the threat of ransomware, payroll diversion schemes and to protect important data:

Password Best Practices

- Never reveal passwords to anyone

Loss Prevention
and
Safety

PO Box 85210

Lincoln, NE
68501-5210

phone
402-742-9220

fax
402-742-9230

toll free
800-642-6671

We're on the Web

<https://nirma.info>



The Importance of Cybersecurity *continued*

- Use different passwords for different accounts
- Length trumps complexity
- Complexity still counts
- Make passwords that are hard to guess but easy to remember
- Use misspelled words with characters and symbols

Phishing – Be Wary of These Red Flags – KnowBe4

- Email is from an unknown address/sender
- You know the sender (or organization), but the email is unexpected or out of character
- You were copied on an email and you do not know the other people it was sent to
- You receive an email that would normally be sent during business hours but was sent at 3:00 am.
- Email is pressuring you to take some action using guilt or fear
- Misspellings in hyperlinks
- Email contains hyperlinks asking you to take an action
- When you hover your cursor over a link, the link address is for a different website
- The subject line of the email is irrelevant or does not match the message content
- Email is about something you never requested or a receipt for something you never purchased
- The sender is asking you to click on a link or open an attachment
- The email is asking you to look at a compromising or embarrassing picture of yourself or someone you know.
- You have an uncomfortable feeling, or it just seems odd or illogical
- Any attachment you receive that you are not expecting

Educating employees is the first line of defense against hackers and the best way to protect important data. NIRMA provides multiple resources to assist our members in keeping this topic front-of-mind:

- Streaming videos on demand – “Don’t click that link”
- NIRMA Online University – “Cybersecurity Threats to Public Entities”
“Computer Security Basics”
“Cyberstalking”
“Risks of Social Media in the Workplace”
- Loss Prevention Training - “Cybersecurity”
“Cybersecurity Best Practices”
- NIRMA eRisk Hub - Three recorded NIRMA-hosted webinars; eRisk Hub provides numerous training resources, games, videos, phishing examples, self-assessments, news, breach response.

Loss Prevention and Safety

chad@nirma.info

tim@nirma.info

terry@nirma.info

pat@nirma.info

Please contact
Terry Baxter at
402.742.9220 or
402.686.9332
or email:
terry@nirma.info



The Importance of Cybersecurity *continued*

Hackers are targeting local government and municipalities. They see us as a soft target due to smaller budgets and less technology. We have a duty to protect taxpayer funds and personally identifiable information (PII). Keep in mind that the PII we need to protect includes that of our employees, so it behooves everyone to do their part.

As always, I can be reached at chad@nirma.info or 1.800.642.6671.

LAW ENFORCEMENT AND CORRECTIONS

By Terry Baxter, Law Enforcement and Safety Specialist

Fourth Amendment Seizures

The United States Supreme Court recently ruled in a case involving Fourth Amendment seizures (*Torres vs. Madrid*). United States Supreme Court clarified the meaning of a seizure and addressed the argument proposed that a seizure required complete control of a suspect but noted there is a seizure by control and a seizure by force which could have consequences for law enforcement involved in use of force events.

The Fourth Amendment protects the right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures. This case concerns the seizure of a person which can take the form of physical force or a show of authority that in some way restrains the liberty of a person. The Eighth Circuit Court of Appeals, which decides cases out of Nebraska, has long interpreted Fourth Amendment seizures to include unsuccessful "attempts" by law enforcement to take physical control over a suspect. But until the recent ruling in the *Torres* case, some other Circuit Courts had held that there was no Fourth Amendment seizure unless law enforcement had gained actual control over the person being seized.

Torres vs. Madrid

On July 15, 2014, New Mexico State Police Officers wearing tactical vests with police markings, was at an apartment complex to execute an arrest warrant on a female when officers observed two females standing by a vehicle, one later identified as Torres. As the officers approached, one female left on foot and Torres got into a vehicle, alleging she was fearing for her safety. Officers testified that Torres appeared to be experiencing methamphetamine withdrawal. Officers would also testify that neither Torres nor her companion was the target of the warrant.

Officers tried to contact Torres while she was in her vehicle. Torres would claim she did not recognize the officers as law enforcement and thought she was being carjacked when one of them tried to open her car door. Torres indicated she only saw their guns and so she took off driving away from the area. Torres would claim neither officer was in the path of her car as she sped away, but officers would claim Torres drove her vehicle toward one of them.

Officers fired thirteen rounds toward the fleeing vehicle, two rounds struck Torres. Torres drove away from the area, stopping in a parking lot. She asked a bystander to report an attempted carjacking. Torres then stole a vehicle, driving it 75 miles to a hospital. Later Torres would be arrested

Loss Prevention
and
Safety

Employment
practices seminars
reschedule for
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



Fourth Amendment Seizures *continued*

fleeing from a law enforcement officer, assault on a peace officer and unlawfully taking a motor vehicle. Torres pled no contest to the charges and filed suit against Officer Madrid and Officer Williams under 42 U.S.C. §1983 alleging her constitutional rights were violated when officers used excessive force.

The District Court granted summary judgement to the officers, concluding stopping of movement was not satisfied and the Court of Appeals for the Tenth Circuit affirmed that since Torres continued her flight after being shot by police negates a Fourth Amendment claim as no seizure had occurred and the force applied did not terminate the suspect's movement. But the United States Supreme Court in a 5-3 decision vacated the Court of Appeals decision and concluded officers seized Torres even though she fled and was not captured until later.

The Supreme Court held that "the officers" shooting constituted physical force to her body and objectively manifested an intent to restrain her from driving away, so therefore concludes she was seized the instant the bullets struck her.

The Court indicated in their opinion a seizure does not depend on the subjective perceptions of a seized person, in this case Torres claimed to have perceived the officer's actions as a carjacking, but the conduct of the officers, ordering Torres to stop and then shooting to restrain her movement, satisfies the objective test for a seizure, regardless of where Torres comprehended the governmental character of their actions. The officers shooting applied physical force to her body and objectively manifested an intent to restrain her from driving away. Courts then conclude the officers seized Torres for the instant that the bullets struck her.

Justice Gorsuch, with whom Justice Thomas and Justice Alito join, dissenting:

The majority holds that a criminal suspect can be simultaneously seized and roaming at large. On the majority's account, a Fourth Amendment "seizure" takes place whenever an officer "merely touches" a suspect. It is a seizure even if the suspect refuses to stop, evades capture and rides off into the sunset never to be seen again. That view is as mistaken as it is novel.

But the majority holding of the case and the takeaway rule of law in the land going forward is this: "**the application of physical force to the body of a person with intent to restrain is a seizure even if the person does not submit and is not subdued.**"

Now, the big question will be in future Fourth Amendment seizure cases whether on an officer's act of physical force, which might take on many different forms, such as a tap on the shoulder or spraying mace into a crowd, could be included as an "intent to restrain", concerns I am sure will be before the courts for consideration.

To read the decision access:

https://www.supremecourt.gov/opinions/20pdf/19-292_21p3.pdf