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Contents
Gregory West currently serves as dean for the School of Protective and Human Services at Waukesha County Technical College (WCTC) in Pewaukee, Wisconsin. Prior to being named dean, he served at WCTC as the associate dean of Fire and EMS Training for several years. Greg is licensed to practice law in Wisconsin (he was formerly licensed in California as well) and holds several degrees, including a Doctor of Education with an emphasis in educational leadership and management, a Juris Doctor in law, and two Bachelor of Science degrees in fire science management and industrial engineering.

Greg also has volunteer, paid-on-call, and career (full-time) firefighting and EMS experience dating back to 1992. He has served with several fire departments in various capacities, including roles in not only fire suppression and EMS response but also as a fire inspector, fire investigator, line officer, public relations director, and union representative. Greg currently functions in a limited capacity as a member of the Hartland Fire Department; teaches legal aspects, business law, technical writing, and leadership/management courses as an adjunct visiting professor at Southern Illinois University and as a part-time instructor with West Texas A&M University; routinely presents on legal issues and educational topics related to fire and EMS disciplines; writes a bimonthly legal column for the Wisconsin EMS Association’s magazine (EMS Professionals); and is the vice chair of the governor-appointed State of Wisconsin EMS Board.
Author’s Acknowledgments

As I reflect back on my career up to this point, one thing is consistent... I have a lot of people to thank. The short story is that I would not be where I am, nor would this second edition have been possible, without the support and assistance of more people than I can possibly count or hope to mention here. Still, there are some people who consistently come to mind whenever I think about how I wound up where I am today, and I would like to take a quick moment here to recognize some of these individuals for the positive impact they had on me and my career.

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Introduction

This text was written to comply with the Fire and Emergency Services Higher Education (FESHE) program Political and Legal Foundations for Fire Protection course objectives. This text reviews the American legal system and provides coverage of legal and political issues involving employment and personnel matters, administrative and operational matters, planning and code enforcement, and legislative and political processes with regard to fire, EMS, and other related emergency services.

Once completed with this text, the reader should be able to:

- Identify potential legal and political issues in fire and emergency services.
- Describe legal lessons learned from recent cases and identify best practices in the fire service to avoid legal liability.
- Analyze and apply legal rules and political issues to manage risk.
- Formulate political and legal conclusions and recommendations based on the analysis.
- Locate and apply recent legal and legislative online resources.

Beyond these outcomes, this text also has a secondary purpose. The law affects everything we do in society, especially when functioning as an agent of a fire department or EMS agency. Firefighters, EMS providers, and other emergency workers are calculated risk takers. They often “risk a lot to save a lot” and having an understanding of the law as it applies in different situations allows the prudent firefighter, EMS provider, operational officer, or senior staff member to manage legal exposure. There are times when it may be necessary to assume greater legal risk because it is the right thing to do. There are other times when a legal risk is not worth the potential benefit. As a result, it is important for those in fire and EMS disciplines to have a passing knowledge of the law and how it affects them in their profession.

This text is not designed to make attorneys out of anyone. Rather, its purpose is to arm you with some basic legal knowledge so that, when faced with a legal quandary, you may remember some of the principles discussed within these pages and recognize the need to seek qualified legal advice.

Before reading this text, it is important to understand the limitations associated with this particular type of resource.

Width and Breadth of “The Law”

“The Law,” as it is used within common vernacular, includes subjects and topics so broad and diverse that there is no way one person or resource can be considered authoritative in all aspects. Similar to the way in which physicians have a specialty, lawyers commonly practice in one specific area of the law. Maritime law is very different from corporate structure and governance, which is different from criminal law, and so on.

As you will discover, this text discusses various diverse topics of law, including contracts, end-of-life instruments, criminal law, negligence, cyberlaw, and so on. Consider this resource to be a proverbial “jack of all trades, and a master of none.” When faced with a legal issue, a person or party is prudent to seek an attorney who specializes in the specific body of law related to the specific issue. Keep that in mind when using this text. In providing a high-level overview of the law for fire service and EMS personnel, this text does not delve into significant detail. The information provided herein is “awareness-level” only. It is also not possible to comprehensively cover all possible facets of every potential law that can impact fire, EMS, and other emergency services. Always seek advice from qualified legal counsel in your jurisdiction when a legal question arises.

Case Details Drive the Outcome

Every law student, at one point or another, has joked about the answer to every question being “it depends.” No matter the question asked by the professor, this always seems to be the answer because there are very few absolutes within the practice of law. A case turns on its facts and a court may have a different ruling on two seemingly identical cases given a single difference in the fact patterns of the two cases (or different applicable laws given cases decided in different jurisdictions). Laws vary across the country and even similar laws are open to interpretation by the courts. What seems rather straightforward may prove to be convoluted as more evidence is presented.

With that in mind, this text attempts to provide clear guidance on issues that are not always clear-cut. Again, the purpose is to merely introduce fire service and EMS personnel to the laws that affect them. In doing so, there are instances in which the
applicable law may be oversimplified to assist the reader in understanding a legal concept. If faced with a legal issue in professional practice, do not use the information in this text as authoritative; be certain to seek qualified legal counsel familiar with the subject matter at issue.

“The Law” Is Constantly Changing and Evolving

Another important consideration is that the law is always in a state of flux and change. It seems like almost every day a new court ruling emerges that changes our understanding of the law. Some of these court decisions are sweeping with broad implications, while others have a subtle or more narrowly drawn impact. Regardless, it is fair to say that the law, as we know it, may not be the law tomorrow (whether that be one day, one year, or one decade from now). Court decisions occasionally modify legal interpretations or doctrines established by previous decisions. Additionally, legislatures are constantly writing new laws and administrative agencies are routinely promulgating new or updated rules and regulations. While some of the concepts discussed in this text may seem tried and true, that is not to say things cannot change. In some areas of law, such as those involving computers and electronic technology (as a quick example), the law often struggles to keep up with the technological changes that many of us take for granted.

Inadvertent Errors and Timeliness

While every effort was made to ensure the information provided within this textbook was correct at the time it was written, occasional inadvertent errors may be present at the time of publication or subsequently arise later as the underlying laws and associated interpretations change. Information within this textbook should not be relied upon to make operational, legal, or other decisions. This textbook is designed to be a learning tool only; it is not authoritative in any facet of the law. Entities and individuals should consult with a licensed attorney who has subject-matter expertise in the applicable area of law related to any legal question, quandary, or scenario that may arise.

Jurisdictional Differences

As already mentioned briefly, laws also vary from jurisdiction to jurisdiction. Each state has its own constitution and body of laws, and many states allow their subdivisions of government to pass laws as well. Even federal laws may or may not apply within a specific area depending on how they were written. (For example, some federal laws are actually tied to federal money and a state does not have to abide by the federal provisions unless that state wants the federal money that accompanies the provisions. The 21-year-old drinking age and the 0.08 blood alcohol content limit for drunk driving are examples of this type of “legislation” through spending authority. Federal transportation money is tied to states enacting laws to comply with these federal initiatives.)

This textbook is designed to address legal aspects that affect fire and EMS within the United States only. While variations in laws between states and the federal government may be subtle in some instance, additional differences between the laws of the United States and other countries may be significant. Nothing in this text is designed to account for laws and other legal provisions in other countries.

The daily operations of fire and EMS providers are also commonly governed by state (not federal) law. It is simply not feasible for this text to cover every aspect of law as applied by each of the 50 individual states (and additional territories). As a result, this text will attempt to convey broad, general principles of majority law that commonly apply in most jurisdictions. With that being said, there is no guarantee that a specific state, jurisdiction, or municipality has or enforces a similar law. If examples are provided, the state in which they apply will be shared.

Inclusion of Other Resources

Given the nature of legal study, the best way to explain a law or provide an interpretation of what the law means is to include information directly from governmental sources and regulatory agencies. This means that some of the information provided within this text is included verbatim from various governmental sources (such as case law; court opinions, dissents, and dicta; statutes; regulations; and regulatory body opinions and interpretations). Any such sources may be truncated to isolate specific ideas or concepts pertinent to the specific topic of discussion.

Legal Advice Not Provided or Implied

Ultimately, this textbook is designed to help nonlawyers understand (at a very cursory level) the law as it applies to fire and EMS-related emergency services. It is an educational resource only. No legal advice is provided or implied within this textbook. Regardless of the information provided within this textbook, if faced with a legal issue, it is important to work with a local, qualified (licensed) attorney versed in the laws that apply in your specific jurisdiction to the subject matter at hand.