



PREP-918

This is how WE do it-EMS Law in VA

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IGNORANCE

Sometimes it's best just not to know.

Before we get started...

- This is an academic lecture, based upon the principles and rules of law.
- What you see and hear, HERE, is not to be construed as the provision of “legal advice”.
- Should you need legal advice...







So what do you know already?

“Study the past, if you would define
the future.”

Confucius

“The past is the future of the
present.”

Japanese Proverb

“Weaseling out of things is important to learn. It’s what separates us from the animals... except the weasel.”



Homer Simpson



Law 101

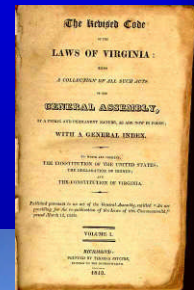
Where do laws come from?

- Three Types:
 - Statutory
 - Written by governing body
 - Precedential
 - Decided by courts
 - Regulatory
 - Written by executive branch



Statutory

- What's written in the books
- Commonly referred to as “The Code”
 - Code of Virginia, 1950, as amended
- 78 titles
 - And growing annually



Precedential

- Decided by the courts
- Based on prior decisions and statutes
- Based on United States Constitution and the Virginia Constitution



Regulatory

- Virginia Administrative Code
 - Virginia's version of the CFR, or Code of Federal Regulations
 - This is what allows branches of the Executive Department to function
 - Is not “Law”
 - Does have effects of law though





Practice Based Review

“What we have to learn to do, we
learn by doing.”

Aristotle

Objectives

- Examine various real-world situations
- Apply already obtained knowledge, skills, and abilities
- Incorporate legal principles
- Keep out of court, and subsequently keep out of trouble





“Other Duties as Assigned”

Situation

- At assigned work site
- Your supervisor has asked you to go cut grass out in the yard in front of the station
- Your partner has been asked to go “weed eat” the yard
- While cutting yard, you accidentally injure your co-worker

Boyce v. City of Winchester

1996 WL 1065526 (Va. Cir. Ct.)

- Volunteer firefighters were tasked with plowing snow from out in front of the station and some of the doors
- Operator of plow (firefighter) accidentally struck the other firefighter in the chest, leading to fatal injuries
- Lead to a wrongful death suit against the city

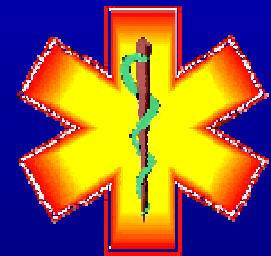
Boyce v. City of Winchester

1996 WL 1065526 (Va. Cir. Ct.)

- To trigger the protection of Sovereign Immunity, acts by volunteers must be “done incident to fighting fires”
- ‘Door to Door’ protection
- Duties ancillary to firefighting or rescue services are not ‘incident to fighting fires’
- Employee vs. Independent Contractor

What you should walk away with

- Coverage of workers in Virginia
 - Volunteer vs. Career
- Duties “Incident to Firefighting”
- What the employer is liable for





Policies & Guidelines

Situation #1

- You are on duty with your partner
- Respond to an emergency call
- “Frequent Flyer” patient
- It’s the 3rd time you’ve been there

Irby v. Gill

3 Va. Cir. 172 (1984)

- Paramedics were summoned to a residence multiple times during a shift
- Policy and Protocol dictated that upon successive returns, medical control was to be contacted before obtaining a refusal
- Medical Control was not contacted
- Patient called again, with bad outcome

Irby v. Gill

3 Va. Cir. 172 (1984)

- Court held that failure to follow established guidelines and protocols was tantamount to gross negligence
- Sovereign Immunity plea in bar was not allowed or granted due to gross negligence determination

Situation #2

- Employed as a firefighter and/or paramedic
- You've assessed for promotion the last 2 times without success
- The department has promoted someone without the base level qualifications
- The department has also failed to follow policies and procedures as set out

Grievance Procedures

- 2004 WL 603688 (Va. Cir. Ct.)
 - Central Virginia
 - Revolves around a promotion grievance
 - Initial hearing-court determined was a grievance
 - Second hearing-locality did not comply with grievance rules
- 1998 WL 972274 (Va. Cir. Ct.)
 - Northern Virginia
 - Revolves around a promotion grievance
 - Initial decision-not grievable by regulations
 - Established policies not followed-grievable action per court

What you should walk away with

- Policies and procedures are NOT created because Administration doesn't have anything better to do
- Policies MUST be followed if you expect to be protected-they are for YOUR benefit





Emergency Vehicle Operations

Situation #1

- While on duty-receive a call for a lockout
- Your policies and procedures call for this type of response to be a 'quiet' response
- While enroute, you begin to make a turn and you strike a fellow motorist



Friday-Spivey v. Collier

268 Va. 384, 601 S.E.2d 591 (2004)

- Fire apparatus was making a turn into a parking lot when it allegedly failed to yield the right of way to Plaintiff
- Car was struck and Plaintiff sued to recover costs of injuries
- Fire apparatus was enroute to a public service call-person locked in vehicle

Friday-Spivey v. Collier
268 Va. 384, 601 S.E.2d 591 (2004)

- Apparatus was responding without lights or sirens
 - Standard driving
- Use of discretion and judgment
- Specialized Training
- Court held that Sovereign Immunity was not available as a plea to bar this suit

Situation #2

- Responding to a report of a fire
- During the response, enter intersection against the red light-no traffic pre-emption
- As you are proceeding through you are struck



Muse v. Schleiden
349 F.Supp.2d 990 (2004)

- Plaintiff sued for damages from an auto accident where a law enforcement officer entered an intersection against a red light
- LEO was responding quiet-no lights or sirens
- LEO entered intersection mistakenly thinking light was green
- Accident occurred

Muse v. Schleiden
349 F.Supp.2d 990 (2004)

- LEO used discretion when deciding to proceed to the call 'quiet' versus 'hot'
- This is tantamount to the use of discretion
- LEO was not 'mandated' to respond non-emergency
- Despite attention being drawn away, only ordinary negligence

Situation #3

- Responding to report of an auto accident
- During response, you fail to look across railroad tracks and are struck
- Crewmember is subsequently injured

Nat'l RR Passenger Corp. v. Catlett
Vol. Fire Company

241 Va. 402, 404 S.E.2d 216 (1991)

- Volunteer firefighter responded to a car fire
- Missed the turn twice while enroute to the call
- Once located the driveway, proceeded down driveway, which crossed railroad tracks
- No stopping at the railroad tracks
- Fire apparatus was struck resulting in death of the driver

*Nat'l RR Passenger Corp. v. Catlett Vol.
Fire Company*

241 Va. 402, 404 S.E.2d 216 (1991)

- Another Sovereign Immunity case, based on driving situation
- Volunteer found to be defacto employee of locality
- Responding to a fire was duties 'incident to firefighting' and discretion required
- Crossing the railroad track akin to entering intersection against red light

Situation #4

- While responding to a basic sickness call, you decide to silence your sirens
- It's 'O Dark-Thirty
- While driving down the road with lights/no siren, you are struck

Code of Virginia §46.2-920

[prev](#) [next](#)

§ 46.2-920. Certain vehicles exempt from regulations in certain situations; exceptions and additional requirements.

A. The driver of any emergency vehicle, when such vehicle is being used in the performance of public services, and when such vehicle is operated under emergency conditions, may, without subjecting himself to criminal prosecution:

1. Disregard speed limits, while having due regard for safety of persons and property;
2. Proceed past any steady or flashing red signal, traffic light, stop sign, or device indicating moving traffic shall stop if the speed of the vehicle is sufficiently reduced to enable it to pass a signal, traffic light, or device with due regard to the safety of persons and property;
3. Park or stop notwithstanding the other provisions of this chapter;
4. Disregard regulations governing a direction of movement of vehicles turning in specified directions so long as the operator does not endanger life or property;
5. Pass or overtake, with due regard to the safety of persons and property, another vehicle at any intersection;
6. Pass or overtake with due regard to the safety of persons and property, while en route to an emergency, stopped or slow-moving vehicles, by going off the paved or main traveled portion of the roadway on the right. Notwithstanding other provisions of this section, vehicles exempted in this instance will not be required to sound a siren or any device to give automatically intermittent signals.
7. Pass or overtake with due regard to the safety of persons and property, while en route to an emergency, stopped or slow-moving vehicles, by going off the paved or main traveled portion of the roadway on the right. Notwithstanding other provisions of this section, vehicles exempted in this instance will not be required to sound a siren or any device to give automatically intermittent signals.

B. The exemptions granted to emergency vehicles by subsection A of this section shall apply only when the operator of such vehicle displays a flashing, blinking, or alternating emergency light or lights as provided in §§ [46.2-1022](#) and [46.2-1023](#) and sounds a siren, exhaust whistle, or air horn designed to give automatically intermittent signals, as may be reasonably necessary, and, only when there is in force and effect for such vehicle either (i) standard motor vehicle liability insurance covering injury or death to any person in the sum of at least \$100,000 because of bodily injury to or death of one person in any one accident and, subject to the limit for one person, to a limit of \$300,000 because of bodily injury to or death of two or more persons in any one accident, and to a limit of \$20,000 because of injury to or destruction of property of others in any one accident or (ii) a certificate of self-insurance issued pursuant to § [46.2-368](#). Such exemptions shall not, however, protect the operator of any such vehicle from criminal prosecution for conduct constituting reckless disregard of the safety of persons and property. Nothing in this section shall release the operator of any such vehicle from civil liability for failure to use reasonable care in such operation.

C. For the purposes of this section, the term "emergency vehicle" shall mean:

1. Any law-enforcement vehicle operated by or under the direction of a federal, state, or local law-enforcement officer (i) in the chase or apprehension of violators of the law or persons charged with or suspected of any such

violation or (ii) in response to an emergency call;

2. Any regional detention center vehicle operated by or under the direction of a correctional officer responding to an emergency call or operating in an emergency situation;

3. Any vehicle used to fight fire, including publicly owned state forest warden vehicles, when traveling in response to a fire alarm or emergency call;

4. Any ambulance, rescue, or life-saving vehicle designed or used for the principal purpose of supplying resuscitation or emergency relief where human life is endangered;

5. Any Department of Emergency Management vehicle or Office of Emergency Medical Services vehicle, when responding to an emergency call or operating in an emergency situation;

6. Any Department of Corrections vehicle designated by the Director of the Department of Corrections, when (i) responding to an emergency call at a correctional facility, (ii) participating in a drug-related investigation, (iii) pursuing escapees from a correctional facility, or (iv) responding to a request for assistance from a law-enforcement officer; and

7. Any vehicle authorized to be equipped with alternating, blinking, or flashing red or red and white secondary warning lights under the provisions of § [46.2-1029.2](#).

D. Any law-enforcement vehicle operated by or under the direction of a federal, state, or local law-enforcement officer may disregard speed limits, while having due regard for safety of persons and property, (i) in testing the accuracy of speedometers of such vehicles, (ii) in testing the accuracy of speed measuring devices specified in § [46.2-882](#), or (iii) in following another vehicle for the purpose of determining its speed.

E. A Department of Environmental Quality vehicle, while en route to an emergency and with due regard to the safety of persons and property, may overtake and pass stopped or slow-moving vehicles by going off the paved or main traveled portion of the highway on the right or on the left. These Department of Environmental Quality vehicles shall not be required to sound a siren or any device to give automatically intermittent signals, but shall display red or red and white warning lights when performing such maneuvers.

F. Any law-enforcement vehicle operated by or under the direction of a federal, state, or local law-enforcement officer while conducting a funeral escort, wide-load escort, dignitary escort, or any other escort necessary for the safe movement of vehicles and pedestrians may, without subjecting himself to criminal prosecution:

1. Disregard speed limits, while having due regard for safety of persons and property;

2. Proceed past any steady or flashing red signal, traffic light, stop sign, or device indicating moving traffic shall stop if the speed of the vehicle is sufficiently reduced to enable it to pass a signal, traffic light, or device with due regard for the safety of persons and property;

3. Park or stop notwithstanding the other provisions of this chapter;

4. Disregard regulations governing a direction of movement of vehicles turning in specified directions so long as the

What you should walk away with

- Emergency vehicle ops is the MOST likely part of your jobs that will land you in court
- Understand the importance and responsibility placed on you, the driver
- Remember, you are driving a HUGE billboard
- Your team, your partner, and the community are counting on you





GIRL SCOUTS

Next time you'll buy the damn cookies!!!



I'm with the Government and I'm
Here to Help

Ordinary Negligence

- Four Prong Test
 - A 'Duty to Act' existed
 - There was a 'Breach' of that duty
 - 'Damages' were suffered
 - The Damages were the 'Proximate Cause' of the Breach of the Duty

Negligence per se

- Violation of a statute results in a determination of negligence
- Statute had to have been written with the specific idea of keeping persons from doing the harm that was done

Gross Negligence

- Above and Beyond what's required for Ordinary Negligence
- “Willful and Wanton disregard for human life and safety”
- Gross Negligence abrogates Sovereign Immunity protections
- Does NOT abrogate Good Samaritan protection though

“It’s Good to be the King”

The Doctrine of Sovereign Immunity

- Four Part Test in VA
 - Function Performed
 - Extent of State’s interest
 - Degree of control by State
 - Use of judgment and discretion

James v. Jane, 221 Va. 43 (1980)

Messina v. Burden, 228 Va. 301 (1984)



Situation #1

- Responding to an emergency call
- While responding, run through a controlled intersection without slowing down
- Crossing the intersection, unit collides with passenger vehicle, killing mother and son

Situation #2

- Your department receives an emergency call
- Your department is 4th due to this area and other units aren't responding
- You arrive, several minutes after the original 911 call
- Volunteer unit

*Overman v. OWL, DTRS, DCVFD,
GDVFD, NVFD, CDVFD&RS, et. al.*
1991 U.S. App. LEXIS 28678 (1991)

- 911 call for medical emergency
- Call went unanswered for several minutes
- Call answered by staffed unit several response areas away
- Lawsuit filed

*Overman v. OWL, DTRS, DCVFD,
GDVFD, NVFD, CDVFD&RS, et. al.*
1991 U.S. App. LEXIS 28678 (1991)

- Those named filed plea in bar
 - Sovereign Immunity Defense
- Plaintiff asserted that volunteer units were not government employees or government function
- Court disagreed

What you should walk away with

- There are protections for those performing public service work
- Even protected in situations of Ordinary Negligence
- Follow established policies and protocols
- Remember, you are being watched





“The Good Samaritan”

Situation #1

- Several people are in a grocery store when a man goes down
- Lay person who had training in CPR several years ago steps up to help
- Lay person, while performing CPR, breaks several ribs, resulting in internal damage
- AED is used



Code of Virginia §8.01-225

1. In good faith, renders emergency care or assistance, without compensation, to any ill or injured person (i) at the scene of an accident, fire, or any life-threatening emergency; (ii) at a location for screening or stabilization of an emergency medical condition arising from an accident, fire, or any life-threatening emergency; or (iii) en route to any hospital, medical clinic or doctor's office, shall not be liable for any civil damages for acts or omissions resulting from the rendering of such care or assistance.

any hospital, medical clinic or doctor's office, shall not be liable for any civil damages for acts or omissions resulting from the rendering of such care or assistance.

2. In the absence of more specific provisions, the provisions of this section shall not apply to a female in active labor.

3. Is a volunteer in good standing and certified to render emergency care by the National Ski Patrol System, Inc., who, in good faith and without compensation, renders emergency care or assistance to any injured or ill person, whether at the scene of a ski resort rescue, outdoor emergency rescue or any other place or while transporting such injured or ill person to a place accessible for transfer to any available emergency medical system unit or any resort

6. In good faith and without compensation, renders or administers emergency cardiopulmonary resuscitation, cardiac defibrillation, including, but not limited to, the use of an automated external defibrillator, or other emergency life-sustaining or resuscitative treatments or procedures which have been approved by the State Board of Health to any sick or injured person, whether at the scene of a fire, an accident or any other place, or while transporting such person to or from any hospital, clinic, doctor's office or other medical facility, shall be deemed qualified to administer such emergency treatments and procedures and shall not be liable for acts or omissions resulting from the

damages resulting from any act of commission or omission on his part in the course of his rendering such assistance in good faith.

5. Is an emergency medical care attendant or technician possessing a valid certificate issued by authority of the State Board of Health who in good faith renders emergency care or assistance whether in person, by telephone or other

him shall not be liable for any civil damages for ordinary negligence in acts or omissions resulting from the rendering of such insulin or glucagon treatment.

B. Any licensed physician serving without compensation as the operational medical director for a licensed emergency medical services agency in this Commonwealth shall not be liable for any civil damages for any act or

7. Operates an automated external defibrillator at the scene of an emergency, trains individuals to be operators of automated external defibrillators, or orders automated external defibrillators, shall be immune from civil liability for any personal injury that results from any act or omission in the use of an automated external defibrillator in an emergency where the person performing the defibrillation acts as an ordinary, reasonably prudent person would have acted under the same or similar circumstances, unless such personal injury results from gross negligence or willful or wanton misconduct of the person rendering such emergency care.

Situation #2

- New OMD has been hired by your agency
- New OMD has concerns about some of the providers, and is wary due to liability concerns
- Situation arises where provider administers too much of wrong drug with bad outcome
- OMD liable?

Code of Virginia §8.01-225

§ 8.01-225. Persons rendering emergency care, obstetrical services exempt from liability.

A. Any person who:

1. In good faith, renders emergency care or assistance, without compensation, to any ill or injured person (i) at the scene of an accident, fire, or any life-threatening emergency; (ii) at a location for screening or stabilization of an emergency medical condition arising from an accident, fire, or any life-threatening emergency; or (iii) en route to any hospital, medical clinic or doctor's office, shall not be liable for any civil damages for acts or omissions resulting

rendering of such emergency resuscitative treatments or procedures.

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8. Is a volunteer in good standing and certified to render emergency care by the National Ski Patrol System, Inc.,

B. Any licensed physician serving without compensation as the operational medical director for a licensed emergency medical services agency in this Commonwealth shall not be liable for any civil damages for any act or omission resulting from the rendering of emergency medical services in good faith by the personnel of such licensed agency unless such act or omission was the result of such physician's gross negligence or willful misconduct.

4. Provides assistance upon request of any police agency, fire department, rescue or emergency squad, or any governmental agency in the event of an accident or other emergency involving the use, handling, transportation, transmission or storage of liquefied petroleum gas, liquefied natural gas, hazardous material or hazardous waste as defined in § 10.1-1400 or regulations of the Virginia Waste Management Board shall not be liable for any civil damages resulting from any act of commission or omission on his part in the course of his rendering such assistance in good faith.

5. Is an emergency medical care attendant or technician possessing a valid certificate issued by authority of the State Board of Health who in good faith renders emergency care or assistance whether in person or by telephone or other means of communication, without compensation, to any injured or ill person, whether at the scene of an accident, fire or any other place, or while transporting such injured or ill person to, from or between any hospital, medical facility, medical clinic, doctor's office or other similar or related medical facility, shall not be liable for any civil damages for acts or omissions resulting from the rendering of such emergency care, treatment or assistance, including but in no way limited to acts or omissions which involve violations of State Department of Health regulations or any other state regulations in the rendering of such emergency care or assistance.

6. In good faith and without compensation, renders or administers emergency cardiopulmonary resuscitation, cardiac defibrillation, including, but not limited to, the use of an automated external defibrillator, or other emergency life-sustaining or resuscitative treatments or procedures which have been approved by the State Board of Health to any sick or injured person, whether at the scene of a fire, an accident or any other place, or while transporting such person to or from any hospital, clinic, doctor's office or other medical facility, shall be deemed qualified to administer such emergency treatments and procedures and shall not be liable for acts or omissions resulting from the

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Any person serving without compensation as a dispatcher for any licensed public or nonprofit emergency services agency in this Commonwealth shall not be liable for any civil damages for any act or omission resulting from the rendering of emergency services in good faith by the personnel of such licensed agency unless such act or omission was the result of such dispatcher's gross negligence or willful misconduct.

Any individual, certified by the State Office of Emergency Medical Services as an emergency medical services instructor and pursuant to a written agreement with such office, who, in good faith and in the performance of his duties, provides instruction to persons for certification or recertification as a certified basic life support or advanced life support emergency medical services technician shall not be liable for any civil damages for acts or omissions on his part directly relating to his activities on behalf of such office unless such act or omission was the result of such

Situation #3

- Dispatcher
- Working as a call taker
- Gets as much information as possible, but doesn't get all info as caller is distraught
- Person needing medical attention dies
- Family comes after dispatcher for failure to inform responders

Code of Virginia §8.01-225

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7. Operates an automated external defibrillator at the scene of an emergency, trains individuals to be operators of automated external defibrillators, or orders automated external defibrillators, shall be immune from civil liability for any personal injury that results from any act or omission in the use of an automated external defibrillator in an emergency where the person performing the defibrillation acts as an ordinary, reasonably prudent person would have acted under the same or similar circumstances, unless such personal injury results from gross negligence or willful or wanton misconduct of the person rendering such emergency care.

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4. Provides assistance upon request of any police agency, fire department, rescue or emergency squad, or any governmental agency in the event of an accident or other emergency involving the use, handling, transportation, transmission or storage of liquefied petroleum gas, liquefied natural gas, hazardous material or hazardous waste as defined in § 10.1-1400 or regulations of the Virginia Waste Management Board shall not be liable for any civil damages resulting from any act of commission or omission on his part in the course of his rendering such assistance in good faith.

5. Is an emergency medical care attendant or technician possessing a valid certificate issued by authority of the State Board of Health who in good faith renders emergency care or assistance whether in person or by telephone or other means of communication, without compensation, to any injured or ill person, whether at the scene of an accident, fire or any other place, or while transporting such injured or ill person to, from or between any hospital, medical facility, medical clinic, doctor's office or other similar or related medical facility, shall not be liable for any civil damages for acts or omissions resulting from the rendering of such emergency care, treatment or assistance, including but in no way limited to acts or omissions which involve violations of State Department of Health regulations or any other state regulations in the rendering of such emergency care or assistance.

6. In good faith and without compensation, renders or administers emergency cardiopulmonary resuscitation, cardiac defibrillation, including, but not limited to, the use of an automated external defibrillator, or other emergency life-sustaining or resuscitative treatments or procedures which have been approved by the State Board of Health to any sick or injured person, whether at the scene of a fire, an accident or any other place, or while transporting such person to or from any hospital, clinic, doctor's office or other medical facility, shall be deemed qualified to administer such emergency treatments and procedures and shall not be liable for acts or omissions resulting from the

person or any other person who, in good faith, renders emergency care or assistance to any injured or ill person, shall not be liable for any civil damages for ordinary negligence in acts or omissions resulting from the rendering of such treatment if the insulin is administered according to the child's medication schedule or such employee has reason to believe that the individual receiving the glucagon is suffering or is about to suffer life-threatening hypoglycemia. Whenever any employee of a school board is covered by the immunity granted herein, the school board employing him shall not be liable for any civil damages for ordinary negligence in acts or omissions resulting from the rendering of such insulin or glucagon treatment.

B. Any licensed physician serving without compensation as the operational medical director for a licensed emergency medical services agency in this Commonwealth shall not be liable for any civil damages for any act or omission resulting from the rendering of emergency medical services in good faith by the personnel of such licensed agency unless such act or omission was the result of such physician's gross negligence or willful misconduct.

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Any individual, certified by the State Office of Emergency Medical Services as an emergency medical services instructor and pursuant to a written agreement with such office, who, in good faith and in the performance of his duties, provides instruction to persons for certification or recertification as a certified basic life support or advanced life support emergency medical services technician shall not be liable for any civil damages for acts or omissions on his part directly relating to his activities on behalf of such office unless such act or omission was the result of such

Situation #4

- Teaching a VA approved, contracted EMT class
- Students all pass minimum class requirements, test, and pass state test and are certified
- Guidelines were exceeded
- Student makes an error and is sued, as is instructor

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to believe that the individual receiving the injection is suffering or is about to suffer a life-threatening anaphylactic reaction.

4. Provides assistance upon request of any police agency, fire department, rescue or emergency squad, or any governmental agency in the event of an accident or other emergency involving the use, handling, transportation, transmission or storage of liquefied petroleum gas, liquefied natural gas, hazardous material or hazardous waste as defined in § 10.1-1400 or regulations of the Virginia Waste Management Board shall not be liable for any civil damages resulting from any act of commission or omission on his part in the course of his rendering such assistance in good faith.

5. Is an emergency medical care attendant or technician possessing a valid certificate issued by authority of the State Board of Health who in good faith renders emergency care or assistance whether in person or by telephone or other means of communication, without compensation, to any injured or ill person, whether at the scene of an accident, fire or any other place, or while transporting such injured or ill person to, from or between any hospital, medical facility, medical clinic, doctor's office or other similar or related medical facility, shall not be liable for any civil damages for acts or omissions resulting from the rendering of such emergency care, treatment or assistance, including but in no way limited to acts or omissions which involve violations of State Department of Health regulations or any other state regulations in the rendering of such emergency care or assistance.

6. In good faith and without compensation, renders or administers emergency cardiopulmonary resuscitation, cardiac defibrillation, including, but not limited to, the use of an automated external defibrillator, or other emergency life-sustaining or resuscitative treatments or procedures which have been approved by the State Board of Health to any sick or injured person, whether at the scene of a fire, an accident or any other place, or while transporting such person to or from any hospital, clinic, doctor's office or other medical facility, shall be deemed qualified to administer such emergency treatments and procedures and shall not be liable for acts or omissions resulting from the

glucagon, who, upon the written request of the parents as defined in § 22.1-1, assists with the administration of insulin or administers glucagon to a student diagnosed as having diabetes who requires insulin injections during the school day or for whom glucagon has been prescribed for the emergency treatment of hypoglycemia shall not be liable for any civil damages for ordinary negligence in acts or omissions resulting from the rendering of such treatment if the insulin is administered according to the child's medication schedule or such employee has reason to believe that the individual receiving the glucagon is suffering or is about to suffer life-threatening hypoglycemia. Whenever any employee of a school board is covered by the immunity granted herein, the school board employing him shall not be liable for any civil damages for ordinary negligence in acts or omissions resulting from the rendering of such insulin or glucagon treatment.

B. Any licensed physician serving without compensation as the operational medical director for a licensed emergency medical services agency in this Commonwealth shall not be liable for any civil damages for any act or omission resulting from the rendering of emergency medical services in good faith by the personnel of such licensed agency unless such act or omission was the result of such physician's gross negligence or willful misconduct.

Any person serving without compensation as a dispatcher for any licensed public or nonprofit emergency services agency in this Commonwealth shall not be liable for any civil damages for any act or omission resulting from the rendering of emergency services in good faith by the personnel of such licensed agency unless such act or omission was the result of such dispatcher's gross negligence or willful misconduct.

Any individual, certified by the State Office of Emergency Medical Services as an emergency medical services instructor and pursuant to a written agreement with such office, who, in good faith and in the performance of his duties, provides instruction to persons for certification or recertification as a certified basic life support or advanced life support emergency medical services technician shall not be liable for any civil damages for acts or omissions on his part directly relating to his activities on behalf of such office unless such act or omission was the result of such

Situation #5

- Career staffed unit
- Respond to report of auto accident
- Pregnant woman is injured
- Subsequent to transport, woman loses her child
- Sues department and staff that responded
- Good Sam 'Plea in Bar'?

Code of Virginia §8.01-225

§ 8.01-225. Persons rendering emergency care, obstetrical services exempt from liability.

A. Any person who:

1. In good faith, renders emergency care or assistance, without compensation, to any ill or injured person (i) at the

rendering of such emergency resuscitative treatments or procedures.

7. Operates an automated external defibrillator at the scene of an emergency, trains individuals to be operators of automated external defibrillators, or orders automated external defibrillators, shall be immune from civil liability for any personal injury that results from any act or omission in the use of an automated external defibrillator in an emergency where the person performing the defibrillation acts as an ordinary, reasonably prudent person would have acted under the same or similar circumstances, unless such personal injury results from gross negligence or

5. Is an emergency medical care attendant or technician possessing a valid certificate issued by authority of the State Board of Health who in good faith renders emergency care or assistance whether in person or by telephone or other means of communication, without compensation, to any injured or ill person, whether at the scene of an accident, fire or any other place, or while transporting such injured or ill person to, from or between any hospital, medical facility, medical clinic, doctor's office or other similar or related medical facility, shall not be liable for any civil damages for acts or omissions resulting from the rendering of such emergency care, treatment or assistance, including but in no way limited to acts or omissions which involve violations of State Department of Health regulations or any other state regulations in the rendering of such emergency care or assistance.

damages resulting from any act of commission or omission on his part in the course of his rendering such assistance in good faith.

5. Is an emergency medical care attendant or technician possessing a valid certificate issued by authority of the State Board of Health who in good faith renders emergency care or assistance whether in person or by telephone or other means of communication, without compensation, to any injured or ill person, whether at the scene of an accident, fire or any other place, or while transporting such injured or ill person to, from or between any hospital, medical facility, medical clinic, doctor's office or other similar or related medical facility, shall not be liable for any civil damages for acts or omissions resulting from the rendering of such emergency care, treatment or assistance, including but in no way limited to acts or omissions which involve violations of State Department of Health regulations or any other state regulations in the rendering of such emergency care or assistance.

6. In good faith and without compensation, renders or administers emergency cardiopulmonary resuscitation, cardiac defibrillation, including, but not limited to, the use of an automated external defibrillator, or other emergency life-sustaining or resuscitative treatments or procedures which have been approved by the State Board of Health to any sick or injured person, whether at the scene of a fire, an accident or any other place, or while transporting such person to or from any hospital, clinic, doctor's office or other medical facility, shall be deemed qualified to administer such emergency treatments and procedures and shall not be liable for acts or omissions resulting from the

him shall not be liable for any civil damages for ordinary negligence in acts or omissions resulting from the rendering of such insulin or glucagon treatment.

B. Any licensed physician serving without compensation as the operational medical director for a licensed emergency medical services agency in this Commonwealth shall not be liable for any civil damages for any act or omission resulting from the rendering of emergency medical services in good faith by the personnel of such licensed agency unless such act or omission was the result of such physician's gross negligence or willful misconduct.

Any person serving without compensation as a dispatcher for any licensed public or nonprofit emergency services agency in this Commonwealth shall not be liable for any civil damages for any act or omission resulting from the rendering of emergency services in good faith by the personnel of such licensed agency unless such act or omission was the result of such dispatcher's gross negligence or willful misconduct.

Any individual, certified by the State Office of Emergency Medical Services as an emergency medical services instructor and pursuant to a written agreement with such office, who, in good faith and in the performance of his duties, provides instruction to persons for certification or recertification as a certified basic life support or advanced life support emergency medical services technician shall not be liable for any civil damages for acts or omissions on his part directly relating to his activities on behalf of such office unless such act or omission was the result of such

*Bowen v. Scott Lifesaving & First
Aid Crew, Inc.*

43 Va. Cir. 28 (1997)

- Plaintiff alleged Defendants guilty of “willful and wanton conduct, gross and simple negligence...”
- Defendants alleged actions as pled are barred by 8.01-225

*Bowen v. Scott Lifesaving & First
Aid Crew, Inc.*

43 Va. Cir. 28 (1997)

- The Defendants AND the Lifesaving Crew were ‘persons’ under the statute
- Immune from liability for any civil damages, including damages flowing out of actions comprising gross negligence...
- AS LONG AS...
 - ‘acting in good faith in delivering the emergency medical care.’

Code of Virginia §8.01-225

emergency medical services instructor's gross negligence or willful misconduct.

Any licensed physician serving without compensation as a medical advisor to an E-911 system in this Commonwealth shall not be liable for any civil damages for any act or omission resulting from rendering medical advice in good faith to establish protocols to be used by the personnel of the E-911 service, as defined in § 58.1-1730, when answering emergency calls unless such act or omission was the result of such physician's gross negligence or willful misconduct.

external defibrillators at the scene of emergencies, (c) orders automated external defibrillators for use at the scene of emergencies, or (d) operates an automated external defibrillator at the scene of an emergency, or (v) expenses reimbursed to any person providing care or assistance pursuant to this section.

For the purposes of this section, an emergency medical care attendant or technician shall be deemed to include a person licensed or certified as such or its equivalent by any other state when he is performing services which he is licensed or certified to perform by such other state in caring for a patient in transit in this Commonwealth, which care originated in such other state.

F. For the purposes of this section, the term "compensation" shall not be construed to include (i) the salaries of police, fire or other public officials or personnel who render such emergency assistance, (ii) the salaries or wages of employees of a coal producer engaging in emergency medical technician service or first aid service pursuant to the provisions of § 45.1-161.38, 45.1-161.101, 45.1-161.199 or 45.1-161.263, (iii) complimentary lift tickets, food, lodging or other gifts provided as a gratuity to volunteer members of the National Ski Patrol System, Inc., by any resort, group or agency, (iv) the salary of any person who (a) owns an automated external defibrillator for the use at the scene of an emergency, (b) trains individuals, in courses approved by the Board of Health, to operate automated

damages for acts or omissions resulting from the rendering of such rescue or recovery work in good faith unless such act or omission was the result of gross negligence or willful misconduct. For purposes of this subsection, the term "Voice-over-Internet Protocol service" or "VoIP service" means any Internet protocol-enabled services utilizing a broadband connection, actually originating or terminating in Internet Protocol from either or both ends of a channel of communication offering real time, multidirectional voice functionality, including, but not limited to, services similar to traditional telephone service.

D. Nothing contained in this section shall be construed to provide immunity from liability arising out of the operation of a motor vehicle.

E. [Expired.]

F. For the purposes of this section, the term "compensation" shall not be construed to include (i) the salaries of police, fire or other public officials or personnel who render such emergency assistance, (ii) the salaries or wages of employees of a coal producer engaging in emergency medical technician service or first aid service pursuant to the provisions of § 45.1-161.38, 45.1-161.101, 45.1-161.199 or 45.1-161.263, (iii) complimentary lift tickets, food, lodging or other gifts provided as a gratuity to volunteer members of the National Ski Patrol System, Inc., by any resort, group or agency, (iv) the salary of any person who (a) owns an automated external defibrillator for the use at the scene of an emergency, (b) trains individuals, in courses approved by the Board of Health, to operate automated

What you should walk away with

- Good Samaritan Act is STILL alive and well in Virginia
- Offers some really wide sweeping protections
- Often goes overlooked
 - Especially when thinking of career services
- Fee for Service Implications



RECEIVED

JUL 20 2007

UNITED STATES BANKRUPTCY PANEL
OF THE SIXTH CIRCUIT

FILED

JUL 20 2007

LEONARD GREEN, Clerk

LEONARD GREEN
IN RE AZBILL,

Debtor

BAP No. 06-8074

WILLIAM DANIEL AZBILL,

Appellant

CHAPTER 7
HON. WILLIAM S. HOWARD

v.

Bankr. No. 98-21474

will be out of town in Oregon, on a 350-mile bicycle trip from July 30 through August 4, 2007, for
no other reason than to please his wife. Counsel assures this panel that Oral Argument would be
more enjoyable than the aforementioned bike trip.

Comes now the Appellant, by counsel, and moves the Court to reschedule the Oral Argument currently scheduled for August 1, 2007. The grounds for this motion are that undersigned counsel will be out of town in Oregon, on a 350-mile bicycle trip from July 30 through August 4, 2007, for no other reason than to please his wife. Counsel assures this panel that Oral Argument would be more enjoyable than the aforementioned bike trip.

A proposed Order is tendered herewith.



To Search, or Not To Search...

Situation

- Respond to a report of a fire
- Upon arrival, find smoke showing, small fire in kitchen
- Once fire is out, windows are opened and fans put in place
- While in bedroom, you see white powder and a scale and small baggies

Jones v. Commonwealth

29 Va.App. 363, 512 S.E.2d 165 (1999)

- Firefighters responded to a report of a fire at an apartment
- Once fire was under control and ventilation was in progress, gun was found
- In bedroom was quantity of cash and baggies with possible narcotics
- Firefighters showed police what they saw and contraband seized

Jones v. Commonwealth

29 Va.App. 363, 512 S.E.2d 165 (1999)

- This is Virginia's version of *Michigan v. Tyler*, 436 U.S. 499, 98 S.Ct. 1942, 56 L.Ed.2d 486 (1978)
- Firefighter CAN summon police if observes evidence in plain view
- Can NOT make a general search, only follow prior footsteps
- Police can NOT exceed scope of firefighters entry

What you should walk away with

- Fire Officer or EMS Officer/Attendant in Charge, doesn't matter
 - You may be faced with THIS situation
- TREAT THE PATIENT
- DO NOT ASSIST POLICE other than telling them what you saw
- You WILL be coming to court





“I’m NOT goin to NO
HOSPITAL!!”

Situation #1

- While on scene of a patient who is visibly intoxicated, you learn during your assessment that the patient may be having an AMI
- Patient clearly states they do not want to go to the hospital-"I'm gonna die in my home"
- You forcibly take the patient against their will to the hospital

Code of Virginia §18.2-47

- Any person who, by force, intimidation or deception, and without legal justification or excuse, seizes, takes, transports, detains or secretes another person with the intent to deprive such other person of his personal liberty or to withhold or conceal him from any person, authority or institution lawfully entitled to his charge, shall be deemed guilty of "abduction."

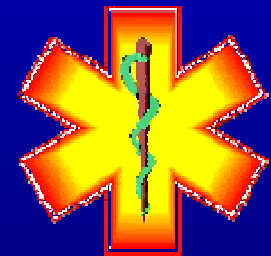
False Imprisonment

- The restraint of one's liberty without sufficient legal excuse therefor by word or acts which he or she fears to disregard, and neither malice, ill will, nor wrongful intention are elements of the offense.

Montgomery Ward & Co. v. Wickline
188 Va 485, 50 S.E.2d 387 (1948)

What you should walk away with

- Intent is required, in most situations, to commit a crime
- Yes, and EMT CAN commit abduction
 - But you need to be lacking lawful reason first



Recommendations from an Attorney

- read, Read, READ
- Know the policies and procedures
- Don't stray from the protocols UNLESS specifically authorized
- Attend ConEd's and CME's
- Advance your training
- Beware of "It's always been done this way" reasons





ADVERSITY

Impossible odds makes achievements even more satisfying.



Questions?

jwitt@owlvfd.org