



# ***CHIEF'S FILE CABINET***

***Ronny J. Coleman***

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## Their Coming to Getcha

It is really hard to have good time if you are paranoid. To think someone is out to get you, you are always looking over your shoulder. Almost anything you do can be scary and has some anxiety to it. Even basic activity comes weighted down with the potential concern for an adverse consequence. Being paranoid is just plain painful.

So what do you have to be paranoid about? The answer is found in a document that is increasing in size almost daily. It is referred to as the list of state and federal mandates being imposed on fire agencies. The legislature in its infinite wisdom has seen fit to set more and more requirements on the fire service. These requirements have found their way into law. Believe you me, there is sufficient grounds for you to be paranoid. For the simple fact is, you can be found guilty of doing something wrong or you can be found guilty for not doing something and the consequences can be severe in either case.

The real question is do you know the difference and are you a practicing paranoid? The reason I asked if you know the difference is that many things that are classified as being mandatory may or may not be. However, the list seemingly grows longer every day and there is a minimum amount of understanding of what it really means to a modern fire service manager.

Having done some research on the various forms of regulatory mandates, it is interesting to note that some of them have come into existence because of some catastrophic event. Others have come into existence because of well intentioned law makers hoping to prevent a catastrophic event. Notably, they are not equally balanced in terms of the consequences or even the probability that they will prevent a re-occurrence of an event. They hope too, but they do not guarantee safety. The only punish those that violate the act.

What I mean by that statement is that inevitably if somebody has paid the price of failing to do something and it has resulted in death or serious injury it often finds itself into the area of mandates as having a consequence of a fee or a fine. It doesn't always prevent another death or injury. On the one hand, those altruistic mandates that have been imposed because someone thought it was a good idea often are weakly enforced and even when you are found guilty of not doing them, there is a remote possibility you won't pay much in the way of a fee or fine.

As practicing fire professionals, we really need to know what the differences between these are. For example, I have seen documents that say that ISO training is mandatory. That simply is not true. ISO training is a recommendation by the Insurance Service Office that certain practices be incorporated so you can get the maximum credit when you are undergoing a fire suppression rating review. However, there is nothing mandatory about them at all. The consequence of failing to adhere to ISO



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record keeping requirements is that you don't get as many points as you might have otherwise on your next grading visit.

On the other hand, the two in and two out rule from OSHA has some teeth to it. If you don't think that there are consequences of the OSHA regulations, experience a fire fatality or even a serious injury and then stand by to watch what happens when the investigating team arrives on your doorstep. They will have a lot of questions. You had better hope you have the answers

There are basic business management practices involved in compliance. As long as they are followed you can find yourself in basic compliance with many of the so called mandates very simply. The number one practice that is underestimated in terms of overall compliance in most cases accurate is record keeping. Records speak very loudly in the investigative process. The lack of records also creates a resounding sound effect that might sound like shattering glass. A conscious decision to bring yourself into compliance with a particular provision by just having good records, is a lot more valuable than a casual acquaintance and fearful concern with a requirement which you may or may not have a written policy on.

The best way to begin this process is to write down what you think are all of the mandatory duties to warn and perform for your department. If your state has developed one of these listed, all the better. If your state hasn't, then it is probably a bona-fide project for the local or regional fire chiefs association to accomplish. The national framework for this is found predominately in the OSHA regulations; however there are other federal mandates as well. The real question is, do you know what they are? Do you have punch list that you have consciously gone through to decide whether or not you are going to remain in total compliance with? Moreover, have you made a decision as to how often that compliance must be validated and be able to demonstrate it.

A review of many laws reveals that some of the things that you can be held in violation of are event driven, i.e. an actual accident or incident. Whereas other of these alleged mandates are based on a chronological criterion, i.e. you must perform some kind of activity once a year or once every three years. If you have not developed this matrix then you have a potential vacuum in your strategic planning process.

While we spend a lot of time talking about risk management in the community, managing the risk of running a fire department from a standpoint of liability, is an exercise that cannot be taken for granted. Simply stated, the more things you are going to be held accountable for and the fewer of those that you actually do increases your liability by orders of magnitude.

Then there is a little concept called the spirit of the law. In the event that you have some kind of requirement that you do certain things and you make an attempt at it, are you are better off if you just



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completely ignore it or act as if it doesn't exist. This is where the planning process comes in. Once you have determined what requirements you do have you need to comply with you need to make that into a part of your objective setting process. Seldom are mandates as high up as to be a goal. More often compliance with mandates is down at the action plan level or in some cases an operational objective. The overall goal that encompasses all of them is maintaining compliance with external statutory regulations.

I made this statement before and I don't mind repeating it in print. I doubt if there is a single solitary firefighting agency in the United States of America that is in 100 percent compliance of all the well intended laws and regulations that have been placed on the books. The danger zone is primarily in those agencies that have no clear cut understanding of what they are supposed to be doing. The safe zone begins to be developed by those organizations that plan for long term and incremental compliance rather than ignoring things.

In the final analysis the way that most of these mandates are brought to the forefront is through some form of lawsuit. When you are being sued for doing something – or not doing something – it is too late to say I am sorry. Your best defense is to have in place that matrix that clearly indicates that you recognize what you are responsible for and that you have made incremental efforts to obtain the highest level of compliance in keeping with your responsibilities and resources.