

INVESTIGATIONS

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Investigations

- Available Training
- Firefighter's Bill of Rights
- The Complaint
- Interviews
- Report Writing
- Forms

Available Training

The EMS Authority recommends to those persons conducting investigations to complete the following courses in order to assist you with investigations:

- THE COUNCIL ON LICENSURE, ENFORCEMENT AND REGULATIONS (CLEAR)
- REGULATORY INVESTIGATIVE TECHNIQUES
- INTERVIEW & INTERROGATION
- COURTROOM TESTIMONY/ADMINISTRATIVE HEARINGS
- PUBLIC RECORDS ACT

Firefighter's Bill of Rights

AB 220 Government Code 3250-3262

Links for Available Interpretation and Review:

- California Professional Firefighters

<http://www.cpf.org/go/cpf/news-and-events/news/breaking-news/ffs-bill-of-rights-details>

- League of California Cities

<http://www.cacities.org/ab220whitepaper>

Firefighter's Bill of Rights

- (a) "Firefighter" means any firefighter employed by a public agency, including, but not limited to any firefighter who is a paramedic or emergency medical technician, irrespective of rank.
- Government Code 53101
 - Public agency," as used in this article, means the state, and any city, county, city and county, municipal corporation, public district, or public authority located in whole or in part within this state which provides or has authority to provide firefighting, police, ambulance, medical, or other emergency services

Firefighter's Bill of Rights Investigations & Interrogations

- When any firefighter is under investigation and subjected to interrogation that could lead to punitive action, the interrogation shall be conducted under the following conditions:

Firefighter's Bill of Rights

Investigations & Interrogations

- Reasonable Hour
- While on duty, unless an imminent threat to safety of the public requires otherwise
- If off duty, he/she shall be compensated
- Compensation shall not be reduced

Firefighter's Bill of Rights

Investigations & Interrogations

- Firefighter shall be informed prior to the interrogation, the name and rank of the person in charge of the interrogation.
- The nature of the interrogation/Investigation.
- The interrogation/Investigation shall be for a reasonable period/allowing reasonable breaks.

Firefighter's Bill of Rights Investigations & Interrogations

- A statement made while under duress, coercion, or threat to punitive action shall not be admissible in any judicial proceeding.

Firefighter's Bill of Rights Investigations & Interrogations

- The interrogation of a firefighter may be recorded. If so, the firefighter shall have access to all recordings/transcriptions.

Firefighter's Bill of Rights Investigations & Interrogations

If, prior/during the interrogation, it is contemplated that he/she may be charged with a criminal offense, he/she shall be immediately informed of his/her constitutional rights.

Firefighter's Bill of Rights

Investigations & Interrogations

- Whenever an interrogation may result in punitive action the firefighter may request representation of his/her choice, at his/her expense.
- The representative shall not be a person subject to the same investigation.

Firefighter's Bill of Rights

Lawful Exercise of Rights

- Punitive action shall not be undertaken for any act, omission, or other allegations of misconduct if the investigation of the allegation is not completed within one year of discovery by the employing fire department or licensing or certifying agency. Only applies if occurred on or after January 1, 2008.

Firefighter's Bill of Rights Lawful Exercise of Rights/Limitations/Exceptions

- Firefighter waives one year time period-**written waiver**
- Multijurisdictional and requires an extension for coordination of agencies.
- Involves an employee who is incapacitated/unavailable.
- Involves civil litigation that shall be tolled while civil action is pending.

Firefighter's Bill of Rights

Lawful Exercise of Rights/Limitations/Exceptions

- Involves a matter in criminal litigation.
- Involves an allegation of workers' compensation fraud

Firefighter's Bill of Rights

Lawful Exercise of Rights

- If the employing department /licensing agency decides to impose discipline, that agency shall notify the firefighter in writing within 30 days of its decision, but not less than 48 hours prior to imposing the discipline.

Firefighter's Bill of Rights

Lawful Exercise of Rights

- An investigation may be reopened after the one year limitations if both of the following circumstances exist:
 - Significant new evidence has been discovered that is likely to affect the outcome of the investigation.
 - The evidence could not reasonably have been discovered in the normal course of investigation or evidence resulted from the predisciplinary response or procedure.

Firefighter's Bill of Rights

Polygraph Examinations

- A firefighter shall not be compelled to submit to a lie detector test against his/her will.
- Disciplinary action shall not be taken for refusing.
- No comment shall be entered in investigatory notes or anywhere else that he/she refused.
- Testimony of refusal shall not be admissible at a subsequent hearing, trial, or proceeding, judicial/administrative.

Firefighter's Bill of Rights

Financial Disclosures

- A firefighter shall not be required to disclose any item of his/her property, income, assets, source of income, debts, or personal/domestic expenditures, unless:
 - That information is otherwise required to be furnished under state law or obtained pursuant to court order.

Firefighter's Bill of Rights

Search of Locker or Storage Space

- A firefighter shall not have his/her locker or other storage space searched except in his/her presence, or with his/her consent.
- Or a valid search warrant has been obtained.

Firefighter's Bill of Rights

- It is unlawful for an employer or licensing agency to deny or refuse the rights and protections guaranteed by this chapter.
- The rights and protections described in this chapter shall only apply to a firefighter during events and circumstances involving the performance of his/her official duties.
- Appeals process must conform with protections contained in the Administrative Procedures Act

THE COMPLAINT

- Complaints should be triaged as you would patients.
- First determine if you have a complaint. Even if the complaint is valid, do you still have a violation. Is it within your jurisdiction
- Determine resources. Request for documents will be the biggest delay
- Consider a TSO
- Verbal vs. written complaints
- Anonymous complaints. Consider any evidence. Motive
- Television or news articles. Can you believe what the media reports

THE COMPLAINT

- Can you utilize local or State resources to expedite an investigation
- Is the employer cooperative
- Should you contact the patient first, last or at all

THE COMPLAINT

- Legal counsel input. When do you bring on-board
- It is not what you know, but what you can prove. This might depend on witnesses, evidence, resources, case load, etc. Can I meet my burden of proof

THE COMPLAINT

- Complaints that rise to a priority level include:
 - Theft (on or off duty)
 - Patient abuse
 - On duty ETOH/drug
 - Felony crimes
 - Sexual misconduct that may be listed under 290 PC.
- 290 PC:
 - Rape
 - Sodomy
 - Lewd acts
 - Sexual battery
 - Child molestation
 - Obscene exposure
 - Sexual exploitation of minors
 - Distribution of material to seduce a minor

SUBSEQUENT ARRESTS

- How was this learned, DOJ, word of mouth, media, employer, etc.
- An arrest is not a conviction
- Do you wait for a conviction versus not waiting. Depends upon the violation and available evidence

SUBSEQUENT ARRESTS

- Is law enforcement willing to speak with you or share the report
- Is the district attorney willing to share information with you
- You don't know until you try to make attempts for the information

THE INTERVIEW

- Date, time location should be mutually agreeable to all involved.
- Treat the person being interviewed the way you would want to be interviewed
- Should not be an intimidating environment. Is not the time or place to discipline the respondent
- Location should be free and clear of distractions
- Should always be tape recorded. Explain to the person being interviewed the reason for the tape recording

THE INTERVIEW

- Never record a telephone interview without the other individual having knowledge of the recording. This must be communicated clearly
- When activating the tape recorder, state the date, time, location, case number and have all of the participants identify themselves
- Any person being interviewed should be allowed to bring their own recording device

THE INTERVIEW

- Put the tape recorder off to the side so the person being interviewed is not uncomfortable
- Bring extra tapes and batteries. Be familiar with your equipment
- It is best to start the interview with preliminary questions to open the door of communications

THE INTERVIEW

- Let the person being interviewed explain first, then ask follow up questions
- The respondent should answer the questions, not the legal representative
- It is your interview of the respondent, not the other way around. You control the interview. Remember the purpose of the interview, which is to obtain information

THE INTERVIEW

- It may be a matter of agency policy or preference if the interview should be transcribed.
- If you are documenting the interview then summarize.

THE INTERVIEW

- Interviews should be conducted professionally with minimal participants. It is not the time to make a display of force by having multiple participants
- Be aware of your personal space
- Learn from your mistakes and others

THE INTERVIEW

- It is not unusual to conduct multiple interviews of the same person, whether it be a witness, victim or the respondent. Additional interviews can help clear up a discrepancy or uncover other evidence or additional witnesses

REPORT WRITING

- Memorializes your findings , evidence, statements, conclusions and recommendations
- Remember that when you are writing your report, you not only are writing for yourself, but also for others to review. This should be kept in your mind at all times. Parties that may review your report include:
 - The investigator himself for purposes that may arise years from the time it was written
 - Other regulatory agencies
 - Administrative staff
 - Law Enforcement
 - District Attorney
 - Medical Consultants
 - Legal Counsel
 - Administrative Law Judges
 - Jurors
 - Media

REPORT WRITING

- Stick with the facts of the case and beware of documenting hearsay statements
- Beware of documenting your personal feelings. It has no place in the report

REPORT WRITING

- If you are a nurse, paramedic, or an EMT writing an investigative report, don't write like a nurse, paramedic or EMT
- Keep your reports simple and easy to understand by all, including lay personnel
- You may know what a hemodynamically unstable patient is that had received a beta blocker IVP with untoward effects, but will an attorney or an ALJ understand. Explain things in simple terms. One of the worst things to do is to try to impress people in a report.

REPORT WRITING

- Your agency should develop a format for the report.
- Generally, investigators document their case summaries in the following manner:
 - Respondent's name, address, paramedic license number employer.
 - Brief summary of case, or sometimes referred to as a synopsis.
 - Case summary, which is generally the meat of the case and contains facts in a time sequential manner.
 - Conclusions of the investigators findings. This can be based upon his/her discussions with the local EMS agencies, employers, documents reviewed, protocols, criminal convictions, and other aspects that the investigator used to conclude and provide a conclusion to the case.
 - Exhibits.
 - Signatures of the investigator and supervisor

REPORT WRITING

- You should document all facts, even if they are positive
- It is recommended that you document:
 - The respondent appeared to be cooperative and not withholding information
 - The respondent successfully completed a Performance improvement plan
 - The respondent successfully completed a drug/alcohol treatment program

REPORT WRITING

- Be cautious about phrases in your report that talk about "he said," "she said," or "they said." You must identify who he she, or they are in your report
- If an investigation does not support a violation, then it should state either no evidence was discovered to support a violation or simply that no violation occurred

FORMS

- When creating a request form, remember to:
 - Clearly state what you are requesting
 - Provide your name and contact information
 - State your authority to request the information, or to conduct the investigation

FORMS

- Request for Records

EMERGENCY MEDICAL SERVICES AUTHORITY

1930 9th STREET
SACRAMENTO, CA 95811-7043
(916) 322-4336 FAX (916) 445-0300



(Date)

(Name of Court)
Attn: Criminal Records
(Address)
Phone#:
Fax#:

RE: (Name of Respondent)
Case #:
Driver's License #:
DOB:

To Whom It May Concern:

Pursuant to the California Health and Safety Code, the Emergency Medical Services Authority (EMSA) is responsible for conducting background investigations on individuals who have applied for or currently have a paramedic license within the state of California.

California Health and Safety Code section 1798.200 grants the EMSA the authority to conduct investigations into a paramedic's activities, this includes granting or denying a license based upon criminal activity. Moreover, according to Health and Safety Code Section [REDACTED] EMSA is authorized to receive criminal history information from both the Department of Justice and the Federal Bureau of Investigation as part of the licensure process. In addition, the California Penal Code Section [REDACTED] grants EMSA the authority to receive the above requested local criminal history information.

It has come to our attention that the above referenced individual may have a criminal conviction within your agency's jurisdiction. The above referenced individual is currently licensed as a paramedic in the State of California. Therefore, we are requesting a certified copy of the aforementioned conviction including any warrants ordered.

Your anticipated cooperation in this matter is greatly appreciated. If you should have any additional question or concerns, please do not hesitate to contact me at (916) 322-4336, extension ____.

Respectfully,

(Name of Investigator/Investigator Asst.)
Enforcement Unit

FORMS

- Voluntary Request for Employment Information



Paramedic Release and Waiver

I, (Name of Paramedic), hereby authorize any Emergency Medical Services Authority (EMSA) employee bearing this release or a copy thereof to obtain information contained in any file, computer bank, or other compilation system relating to pre-employment, offers of conditional employment, background investigations or actual employment, with the **(Name of Employer)**. This waiver shall relate to any and all information that refers or relates to applications, employment forms, reference checks, evaluations, documented discipline, written submissions, and termination or probation documentation compiled in my personnel or other pertinent file including any disciplinary and/or remediation files or records.

I hereby direct you to release this information upon request of the bearer. This release is executed with full knowledge and understanding that the information is for the official use of the Emergency Medical Services Authority.

Consent is granted for the Emergency Medical Services Authority to furnish the information described above to third parties in the course of fulfilling its official responsibilities.

I hereby release you, as the custodian of such records, and Hall Ambulance, including its officers and employees, both individually and collectively, from any and all liabilities for damage of whatever kind, which may at any time result to me, my heirs, family and associates resulting from the authorized release of information or attempted release of such information, pursuant to the terms of this release and waiver.

This release and waiver is valid for one year from date signed.

Signed this _____ day of _____ in the year _____.

Signed

Print Name

FORMS

- Firefighters Bill of Rights Admonishment

ADMONISHMENT OF RIGHTS UNDER THE FIREFIGHTERS PROCEDURAL BILL OF RIGHTS ACT

The State of California Emergency Medical Services Authority (EMSA) is conducting an investigation into matters that may result in disciplinary action against your EMT-P license pursuant to California Health and Safety Code Section 1798.200 and the California Code of Regulations. As a person covered or potentially covered under the Firefighters Procedural Bill of Rights Act (California Government Code Section 3250 et. seq.), EMSA is informing you of certain rights you have pertaining to this investigation interview.

You have the right to:

1. Have this investigation interview conducted at a reasonable hour, during your normal duty time.
2. Be informed of the name and job classification of the EMSA employee conducting the investigation interview.
3. Be informed of the nature of the investigation.
4. Have the investigation interview conducted for a reasonable period of time. Reasonable breaks to attend to your personal physical necessities will be allowed.
5. An investigation interview free from offensive language. There are no rewards for answering questions, nor punishments for refusing to answer questions. EMSA requests that you answer any questions that you choose to respond to completely, honestly, and accurately to the best of your recollection.
6. Record this investigation interview with your own recording device if you choose. This investigation interview may be recorded by EMSA personnel. If it is recorded by EMSA personnel, you have the right to request and obtain a complete copy of the recording.
7. Obtain a copy of any complaints or reports associated with this investigation, subject to any laws pertaining to confidentiality of such documents.
8. Have a representative of your choosing present during the entire investigation interview, however this person cannot be a subject of this same investigation.
9. Give your express consent prior to searching any personal locker or storage space under your exclusive control. You have the right to refuse to provide consent if you choose.

I acknowledge that I have received a copy of this document prior to commencement of this investigation interview.

Date _____

Signature _____

FORMS

Probation Checklist

PROBATION FORMS

Employment Notification

STATE OF CALIFORNIA - HEALTH AND HUMAN SERVICES AGENCY
EMERGENCY MEDICAL SERVICES AUTHORITY
1930 9th STREET
SACRAMENTO, CA 95811
(916) 322-4336 FAX (916) 324-2875

ARNOLD SCHWARZENEGGER, Governor

Name: _____

**Probationary Terms and Conditions
(required terms are highlighted)**

Terms are checked off once completed Working: Y N

- Function as a Paramedic
- Quarterly Reports
- Employer Notification Form
- Employer Evaluation
- Notification of Termination
- Ethics Course Certificate
- Stress/Anger Management Course Certificate
- Fingerprint DOJ
- Substance Abuse Program
- AA Attendance Sheet
- Education Course Work
- Obey all Laws
- Biological Fluid Testing
- Psychiatric/Medical Evaluation
- Other _____

STATE OF CALIFORNIA - HEALTH AND HUMAN SERVICES AGENCY
EMERGENCY MEDICAL SERVICES AUTHORITY
1930 9th STREET
SACRAMENTO, CA 95811
(916) 322-4336 FAX (916) 324-2875

ARNOLD SCHWARZENEGGER, Governor

Employment Notification

One of the conditions of your probation requires you to notify the EMS Authority of your EMS employer(s) or prospective EMS employer(s) of your probationary status and provide them with a copy of your Agreement. (If you have more than one employer, please make copies as needed). Please complete the information and return it to your Probation Monitor within 10 days.

I certify that a copy of my Agreement was given to my EMS employer or prospective employer and they are fully aware that my paramedic license has been placed on probation.

Probationer (print name) Signature Date

This section is to be completed by Employer

I have received a copy of the Agreement from the probationer listed above and I'm aware of their probationary status.

Employer name (print name) Signature Date

Employer's Name and Address:

Telephone: _____

FORMS

Quarterly Report

Probation Forms

Out of Compliance Letter

STATE OF CALIFORNIA ARNOLD SCHWARZENEGGER, Governor

**EMERGENCY MEDICAL SERVICES AUTHORITY
PARAMEDIC ENFORCEMENT UNIT**

1930 9th Street
Sacramento, CA 95811

QUARTERLY DECLARATION

1. Quarterly Reporting Period: <input type="checkbox"/> 1/1 to 3/31 <input type="checkbox"/> 4/1 to 6/30 <input type="checkbox"/> 7/1 to 9/30 <input type="checkbox"/> 10/1 to 12/31 (Due on or before the 15 th day of the first month of every quarter.)
2. Personal Information to be completed each quarter: Paramedic License _____ Name _____ Cell phone _____ Residence Address _____ City/State/Zip Code _____ Is this a change of address? Yes No E-Mail Address: _____
3. Employment Information to be completed each quarter: 1 st Employer Name _____ Telephone _____ Address _____ City/State/Zip Code _____ 2 nd Employer Name _____ Telephone _____ Address _____ City/State/Zip Code _____
4. Attach verification/reports for any of the following that apply to you: <input type="checkbox"/> Coursework/CE <input type="checkbox"/> Ethics Course <input type="checkbox"/> Anger Mgmt. <input type="checkbox"/> Medical Treatment <input type="checkbox"/> Psychotherapy <input type="checkbox"/> Drug Detox/Diversion <input type="checkbox"/> Other _____
5. Since the last Quarterly Declaration have you been arrested, charged, or convicted of any Federal or State offense, of any county or city laws, rules or regulations? (Exclude parking tickets) <input type="checkbox"/> Yes <input type="checkbox"/> No (If "Yes" explain answer on a separate sheet of paper and attach to this form)
6. During this reporting period have you complied with each and every term and condition of probation? <input type="checkbox"/> Yes <input type="checkbox"/> No (If "No" please explain on a separate sheet of paper and attach to this form)
7. If you did not practice all or part of the period covered by this report, include date you ceased practice _____ and date you resumed practice _____
Executed on _____, 200____, at _____, California. (City) (County) I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Probationer (Print Name) _____ Signature _____

Original: EMSA (Mail this ORIGINAL form to EMSA at the above-listed address.)
Copy: Probationer

(NEW 1/08 revised)

STATE OF CALIFORNIA - HEALTH AND HUMAN SERVICES AGENCY ARNOLD SCHWARZENEGGER, Governor

EMERGENCY MEDICAL SERVICES AUTHORITY
1930 9th STREET
SACRAMENTO, CA 95811
(916) 322-4336 FAX (916) 324-2875



February 4, 2010

CERTIFIED MAIL

Name _____
Address _____

Re: EMSA Case

Dear Mr.:

Our records show that you are in violation of your probation. Failure to comply with the terms and conditions of your probation may result in further disciplinary action. We have not received the following item(s):

- Quarterly Reports - Reporting period _____
- Employer notification form
- Preliminary Alcohol Screening (PAS) testing
- Ethics course certificate
- Stress/anger management course certificate
- Substance abuse program
- AA attendance sheet

Please submit the requested information within ten days from the date of this letter. If the information is not received within this time frame, your file will be forwarded to our legal department for further action. If you have further questions, please don't hesitate to call me at (916)322-4336 ext 430 or email at karen.chambers@emsa.ca.gov.

Respectfully,

Karen Chambers
Probation Monitor

The End

