

“Protection Checklist”

Top 10 Ways to Protect Yourself & Your Agency Against Legal Liabilities

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This Checklist is Based on my #1 Bestselling Book

[Legal Considerations for Tactical Medical Responders for both the Individuals, and Agencies.](#)



This is a relatively new field of law, and there isn't a whole lot of guidance from the courts or legislatures. There aren't many specific laws that spell out the duties or standards of care for tactical medical responders.

However, a wealth of law exists governing health care providers who care for civilians, as well as in the area of liability of law enforcement personnel to those in custody. It is likely that the courts would treat these situations similarly.

This checklist is a summary from my book of how to protect yourself and for the agencies who employ the tactical medical responders. Please read the complete book for all of the information, details and case law.

Top 10 Ways to Protect Yourself & Your Agency Against Legal Liabilities

#1: Understand the duties of a public safety officer's position.

The individual department's policies should provide guidelines. Following these guidelines to the letter should ensure job retention and personal liability protection.

Beyond that, the state or local laws may provide additional duties that must be considered when deciding whether to act or not act. In either case, though, the Court of Public Opinion can't be discounted, and may create issues that require public relations diplomacy and more time-consuming attention than an actual law suit might. If the media is involved, your department will most likely have to take measures to address the issue even if you didn't breach any protocols or policies and aren't subject to civil liability.

In other words: you don't want to have to be the departmental scapegoat.

#2: Assess Priorities by answering these 3 questions before acting:

In assessing priorities, the following questions may be of some use:

- 1.) What is the status of the threat and the capability of the responders to contain the threat?
- 2.) If all available resources are not dedicated to the containment of the threat, what is the potential for loss of life or additional injury?
- 3.) Can I treat civilian injuries without compromising threat response and causing additional casualties?

The unfortunate reality is that not everyone can be saved.

This reality hits home even harder when a tactical medical responder only has limited skills and resources. Sometimes, what would be a survivable injury in one set of circumstances turns into a fatal injury because a minimum level of care was not provided in time. Other times, no matter what aid is rendered, the person would not likely survive the injuries. It doesn't make sense for a tactical medical responder to spend his or her time aiding someone who cannot be saved at the expense of someone who can.

And so: how is a tactical medical responder supposed to know whether or not the injuries are incompatible with life?

#3: Assess the Situation by answering these 3 questions before acting:

- 1.) Do I have the skills and equipment necessary to help this person?
- 2.) Will what I am doing help them, or will it cause further injury?
- 3.) Can I stabilize them until help arrives or they can be transported?

Once the initial assessment has been done, the tactical medical responder is limited by his training and licensure. An EMT may not be legally allowed to perform certain tasks that a Paramedic or a Registered Nurse could perform. Likewise, an R.N. can't legally do certain things that a Medical Doctor could. This is true whether or not the EMT or R.N. knows what needs to be done, or even knows how to do those things.

#4: Have the best equipment, gear, and training necessary for your employees.

It seems to go without saying that well-equipped, well-trained tactical medical responders are ideal for all involved. However, equipment, gear, and training all cost money. If the tactical medic is already an officer, they will need additional training to achieve and maintain basic competency. Medical training is of no use without medical supplies and equipment. Obviously, the department would supply all of these things in this case.

When a civilian tactical medic is used, however, the question of who should supply the training and equipment is not quite as simple. If there is a cooperative agreement between the law enforcement department and the local hospital, for example, often the cost will be shared. Given that the department is ultimately leading the team and initiating the event responses, the department is ultimately responsible for ensuring that the team is trained and equipped.

Money doesn't grow on trees, however, and sometimes it simply isn't available for training and equipping tactical medical responders. In this case, if the department can't budget for these things, and there is no grant money to be used, the department should seriously consider not having tactical medical responders at all. An ill-prepared or ill-equipped tactical medical responder looks worse in a courtroom than not having a tactical medical responder at all. If you are going to do this, do it right. Otherwise, you are opening your department up for liability it can ill-afford – if it could, it could have funded and equipped the responders in the first place.

#5: Make sure the Agency has an insurance policy that covers the potential liability of its employees:

The department/agency must have an insurance policy that would cover their potential liability.

#6: Don't do what you aren't trained to do.

It is not difficult to imagine a tactical medical responder with paramedic training who recognizes that a critically ill patient will die without immediate surgical intervention. Most States do not permit paramedics to perform surgical procedures, including the one in the following hypothetical. In this case, it seems rather obvious that the paramedic should not perform this surgery. However, what if a surgeon, over the telephone, or via a video teleconference on Skype or FaceTime talks the tactical medical responder through the procedure? Is the answer different if the patient survives because of the action taken by the tactical medical responder? What if the patient dies because of the surgery? Would it make a difference if the patient would likely have died anyway?

In either case, the tactical medical responder has acted far outside the scope of his training and licensure. The responder's licensing board may initiate its own investigation and disciplinary proceedings regardless of what happens in a courtroom.

It seems clear in a scenario like this one that the tactical medical responder is practicing medicine without a license. Depending upon the state, this may result in criminal charges regardless of the patient's outcome. Most licensing boards have penalties in some form or fashion for actions taken without an appropriate license.

#7: Continuing Training and Education.

It seems rather obvious that training and education are important. This is not just so in the initial period of service, but ongoing training and education is critical as well. Refresher courses as well as additional training of new techniques and theories are both useful. Putting the benefits of this training in the field aside for a moment, good training and education can help protect you from liability. Failure to train could easily be seen as an indifference to the need for training.

This is especially so if you utilize civilian tactical medical responders. If a civilian is going to be an active participant in law enforcement action, it is critical that the civilian understands the myriad of rules that apply to law enforcement that might not apply to civilians under normal circumstances. In any situation involving a breach of policy or protocol, the opposing party will ask for a copy of the policies and protocols. If the tactical medical responder has not been trained on these policies and protocols, the lack of training will become Exhibit "A" in the suit against you.

#8: Failure to act can have consequences.

Just as acting in a negligent way can get you in to trouble, failure to act when an action is required can have consequences. Many states have laws which require a duty to act in a certain way under

certain circumstances. Make sure you familiarize yourself with the applicable laws in your jurisdiction, so that you don't run afoul of these laws and find yourself prosecuted.

#9: Make sure public safety officers are fully trained and certified if necessary.

It is notable, that an agency can't hide behind a lack of training.

A minimum standard, such as a basic training from a recognized course of study, would likely be required by any fact finder. A department would likely be liable for sending untrained personnel into delicate situations.

The failure to either submit yourself for such training, or the failure of a department to offer such training within its resources may also be considered by a fact finder. If a tactical medical responder hasn't been trained for the scenarios he or she might likely face, he or she probably shouldn't be facing those scenarios in the real world. If he or she does, a lawsuit alleging negligence or even gross negligence is a likely outcome.

#10: If you sign a contract, make sure you read it, and understand it completely. Seek legal advice if necessary.

When civilian medical personnel are used by public safety departments, it is important to establish the nature of the relationship on the front end. The nature of the agreement will determine liability and the type of risk involved for the department.

Contracts are usually binding, and what they say goes, as it memorializes the

understanding between the parties. You can't say you didn't know or understand something if you signed a piece of paper saying that you did. That said, sometimes judges or juries can go behind the contract, if it is obvious that the contract was simply a backdoor way to avoid liability by the employer and place the burden entirely on the employee or contractor in an improper way. If the employer dictates all the minute details of how and why and when a job is to be done, calling the relationship an independent contractor relationship is not likely to fly in a court of law.

Depending upon how tactical medical responders are used in a department, it may not be possible to have an independent contractor relationship. Furthermore, since the civilian tactical medical responders' regular employers might not be willing to cover the liability for actions done in service of the department, there would be no protection afforded to them in an independent contractor type relationship. Their incentive to assist in these cases will be greatly reduced. Very few people would be willing to put themselves (and their careers, and all their assets) in such a

way without knowing that the department 'has their back.' It is important to consider this prior to drafting the contracts used with these types of tactical medical responders.

This list is not comprehensive, it is some of the ways to protect yourself and your department. For all of the ways, please read the complete book, [“Legal Considerations for Tactical Medical Responders, Individuals and Agencies.”](#)

The most important thing is to ensure that your policies and procedures are clear, comprehensive, documented and up to date. Consider engaging a lawyer or other professional who has experience in this area to ensure that your policies and procedures will protect you from liability as much as possible. Experts may cost a little more on the front end, but they can save you money in the long run by protecting you from unnecessary law suits and liability.

BE PROACTIVE TAKE THE FIRST CONCRETE STEP FOR YOU AND YOUR DEPARTMENT!

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I would love to connect with you further. You can find me at any of my websites at:

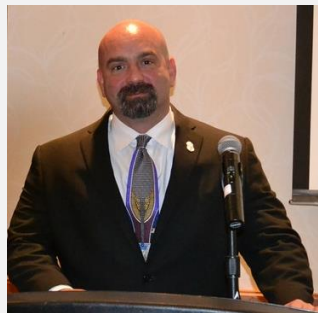
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Thank you!



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