

## **Facing Legal Liability as First Responders**



In recent decades, lawsuits have led to increased awareness of the nature of the training for first responders and emergency workers. Today the type of training received by first responders is often contingent upon on the assigned duties that responders will be performing during an emergency or incident. While it should be noted that response personnel should not perform any duties or procedures in any operation unless they have been trained to the level required by their job responsibility, the nature of emergencies often requires individuals to act outside their assignments for the public good. As a result, individuals who are acting as first responder personnel are likely to now consider suing an organization when they are injured as part of their assigned work duties. Likewise, members of the public may sue the agency using first responders or the responders themselves when the response is not satisfactory.

Today the notion that government agencies and business organizations using first responders are immune from liability based civil lawsuits is gone. Today, the phrase “failure to train” is a legal challenge often used in courts against organizations when incidents are not handled properly. As a consequence, fines from regulatory agencies are levied for inadequate training or improper emergency responses. In light of the attacks on the World Trade Center and the Pentagon on 9/11, numerous studies have shown some of the detailed liability issues involved with first responders and workers. For example, the detailed training requirements for those first responders and workers involved in post-emergency response clean-up operations and remediation are often far less stringent and thus a source of liability when individuals are injured due to improper training.

Government agencies themselves have also noted that liability issues can be raised due to improper training. Depending on the nature of the emergency, OSHA has noted that first responders are likely to be overwhelmed by the enormity of an emergency event and possibly injured when not properly trained for the specific emergency. When an incident occurs, site-specific safety and/or first responder/worker training often does not begin until nearly three months into a

In order to reduce liability, organizations must train their staff who may be called upon to respond to acts of terrorism. This training should include at a minimum the following topics.

- Chemical
- Biological
- Radiological
- Nuclear
- Explosives
- IEDs
- Terrorism Recognition

response such as 9/11. Workers, who are not traditionally seen as first responders such as utility workers, sanitation workers, and skilled support personnel, also had significant and unforeseen exposures or injuries when responding to an incident in which they were improperly trained.

It is important to note that the failure to properly train first responder personnel can be avoided. Government agencies have used leaflet-style safety bulletins and documents to successfully supplement training when facing a short time period or budget restriction. Additionally, organizations using first responders, and the first responders themselves, should continually seek out training curriculum that concentrates on hazards beyond normal responder training. This might include weapons of mass destruction hazards, threats from organizations such as terrorists or gangs, demolition and bombs, and critical infrastructure issues. It is important also to include labor unions with the training of personnel, as well as when setting new goals and objectives when augmenting existing training plans. Ultimately, to avoid liability when it comes to the training of personnel, real world training with real world information is always the best way to avoid lawsuits.

#### SOURCES:

NIEHS. (2002). "Learning from Disasters: Weapons of Mass Destruction Preparedness through Worker Training. Report of a National Technical Workshop." Washington, DC: The National Clearinghouse for Worker Safety and Health Training. pp. 1-45.

Jackson BA, Peterson DJ, Bartis JT, LaTourrette T, Brahmakulam I, Houser A, Sollinger J. (2002) "Protecting Emergency Responders: Lessons Learned from Terrorist Attacks." Santa Monica, CA: RAND. pp 1-89.

*"With the (Spy-Ops) training brief segments on Improvised Explosive Devices, Biological Warfare, Chemical Warfare, and Terror related material I must say that the information has really been a great addition to what I've learned from my agency. The (Spy-Ops) briefs provided exactly what I wanted to know, the way it has affected us, and either technological or current methods to resolve these complicated issues."*

*Henry Budhram Jr., Transportation Security Administration, Department of Homeland Security*



#### CONTACT

##### **Spy-Ops**

4017 Washington Road—MS #348  
McMurray, PA 15317

P 888-650-0800  
F 412-291-1193  
I www.spy-ops.com

This article was written by Edward J. Maggio, a certified instructor and professor of criminal justice and private security. Presently Professor Maggio works in the behavioral sciences department at the New York Institute of Technology. During his career he has advised law enforcement personnel, business administrators, hospital personnel and members of government. He has organized and operated some of the leading conferences in the area of business continuity, security, and emergency planning. As a lawyer and professor, he has worked with numerous police organizations around the world. He is frequently invited to speak about criminal justice and security topics on college campuses, at business events and in different communities around the world along with working on publications to raise awareness of developments in the area of criminal justice and counter-terrorism field.

For NYIT, Professor Maggio also serves as an instructor and speaker in the fields of private security, risk assessment, corporate crime responses, technology applications for security, counter-terrorism, and emergency management. He also currently serves as the Director of Strategic Initiatives at the Technolytics Institute and Spy-Ops.