

# ***LEGAL AND PSYCHOLOGICAL TOOLBOX FOR FIRE DEPARTMENTS, FIRE OFFICERS AND EMERGENCY MEDICAL SERVICES***

Today's fire service is a complicated mix of people, money, rules and regulations with many laws guiding the management and direction of our service. Unfortunately all too often fire departments and their personnel find themselves facing lawsuits due to violations of these laws, rules and regulations.

This series of legal and medical presentations is designed to bring to the forefront those issues that can get fire districts and fire district personnel including elected officials into legal jeopardy. There is a tangible link to the state and federal laws that govern our fire departments. It is incumbent on every fire officer, firefighter and elected official to know and understand how these two disciplines are interconnected.

All of these programs are designed to have the participant become aware of the legal issues facing the fire service and to develop a best practices approach in managing their fire departments and to problem solve issues facing their departments.

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***Designed to meet the educational needs of our fire services.***

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## ***RISK AVOIDANCE***

### **Company Officer Legal Responsibilities – Avoiding Legal Liability**

This is a four (4) or eight (8) hour session for newly promoting fire officers or current fire officers. The presentation is based on current practices in personnel management, legal issues, best practices and a review of case law affecting the fire service. The presentation also discusses issues of workplace harassment and provides working scenarios for the students on how to receive, investigate and manage harassment complaints. Topics include:

The most problematic issues in most fire departments

- Hiring, Performance Evaluations, Administrative Investigations and Termination
- Personnel issues
- Driving
- EMS Liabilities
- Ethics
- Constitutional issues – Free Speech, Internal Investigations, Due Process
- Probationary Period - Harassment and Hazing
- Sexual Harassment/Discrimination
- Off Duty Behavior
- Report Writing
- Volunteer Firefighters
- Use of Social Media

- Behavioral Health and Suicide Prevention
- Case Law Studies

### **Legal Hazards for Firefighters and Fire Officers – Patient Abandonment, Pornography, Domestic Violence, DUI, Manslaughter and other Criminal Conduct**

Firefighters are infrequently charged with manslaughter and other criminal conduct. This three hour (3) class reviews the legal issues facing the fire service today especially related to driving, EMS malpractice, supervision, training, and field operational issues to include wrongful death, patient abandonment and other legal issues to include on and off duty conduct. This class is interactive designed to bring the student closer to the issues through discussion, problem solving and scenarios.

### **Harassment, Sexual Harassment, Hazing and Bullying**

This three (3) hour class provides an overview of current federal and state law related to discrimination, harassment, sexual harassment, discrimination. This class will also review the most current case law related to these issues and discuss a best practices approach to prevent these events from occurring. This class is interactive with the class participants and will deconstruct one recent discrimination case from beginning to end to include the incident, subsequent internal investigation, the laws affecting the litigation and the legal process that brings these issues to resolution. This class will meet most fire department requires for continuing education training for Harassment and Sexual Harassment and development of a Code of Conduct

### **Risk Management - In Station & Behind Closed Doors**

This three hour (3) class discusses issues in the fire station occurring after returning from an alarm. The presentation is designed to make aware firefighters, fire officers, fire chiefs and elected officials of the problems occurring in the fire stations. The presentation will focus on: pranks, hazing, and discrimination, and sexual harassment, use of department electronics to include email, networks, cell phones, and computers.

### **Firefighter recruitment, hiring, administrative investigations and employee terminations**

This four hour (4) class reviews the hiring process, internal investigations and termination process from a practical and legal perspective discussing Due Process, the right against self incrimination and the right of representation. For individual departments, it will also include a review of the current hiring process currently conducted by an individual department in a one on one session with HR, Fire Chief or other identified staff. The class is designed to develop Best Practices for recruitment, hiring, retention and administrative investigations.

## ***TRAINING***

### **Fire Training Liabilities – Firefighters and Training Officers**

This is a four (4) hour class providing an overview of training officer responsibilities, liabilities and outcomes on case law affecting the fire service and fire training officer. The presentation evaluates several fire training fatalities using the NIOSH investigations, applying the NFPA standards and summaries on best practices. The class also evaluates training fatality during a live burn training utilizing the guidelines found in NFPA 1403 – Live Fire Training and involves the students in the investigation and outcomes. There is extensive Case Law Review

## ***CONSTITUTIONAL LAW***

### **Constitutional Law and the Fire Service**

This three (3) hour session reviews and analyzes 1<sup>st</sup> Amendment, 5<sup>th</sup> Amendment and 14<sup>th</sup> Amendment Issues. How much speech is free, body art, hair, religious freedoms, the rights of the employer to enforce uniform standards, workplace discrimination, due process, discipline and termination with case law related to this topic.

Analyze 14<sup>th</sup> Amendment issues in EMS transport, the rights of refusal by a patient and other Constitutional issues and Federal and State Laws affecting the fire service. This session also involves the student in discussion related to these issues and current events. There is a research and reading assignment for the students taking this class.

## ***DOCUMENTATION***

### **Documentation and report writing – legal aspects**

This is a three (3) hour presentation on documentation for Medical, Fire and general documentation required of every fire officer. The session reviews the best practices for documentation, case law and discusses the most contemporary method of documentation utilizing electronic medical records and other electronic recording devices. This class also discusses the current laws related to release of these documents, HIPAA and other rules and regulations related to documentation and security of those documents. During this session we will go through the EMS form utilized by your department.

## ***HIRING AND PERSONNEL ISSUES***

### **Conducting Legal Firefighter Candidate Interviews**

This eight (8) hour class provides the needed interview skills to fire departments when conducting new firefighter candidate interviews. It is important to avoid the 30 deadly and impermissible questions that can get your fire department in legal jeopardy. This class is a combination of lecture and role play for the candidates and is limited to 15 individuals per class.

## ***VOLUNTEER FIREFIGHTERS***

### **Volunteer Firefighter Legal Issues**

Volunteer firefighters are employees in your fire department and are subject to all the risks and benefits of being a part of your organization. This three (3) hour session is designed for evening sessions with the volunteer firefighter drill nights and discusses the issues facing volunteer firefighters and officers. We cover in a shorter session those topic areas for Company Officers Legal Issues and craft this for volunteer firefighters and fire officers.

- Hiring, Performance Evaluations, Administrative Investigations and Termination
- Personnel issues
- Driving
- EMS
- Documentation and Report Writing
- Probationary Period - Harassment and Hazing and Sexual Harassment and Discrimination
- Off Duty Behavior
- Use of Social Media
- Case Law Studies

## ***EMERGENCY OPERATIONAL SEMINAR***

### **Biohazards, Infectious Disease and the Firefighter**

This three hour session presents and discusses the most recent controversies related to bio-terrorism, ebola, influenza, infectious disease and immunizations for the fire service. This class is a customized class for each fire department and includes the most recent material from CDC on current biologics, infectious disease, decon, immunizations and other material related to biohazards and infectious disease.

The student's are given a reading and research assignment prior to attending class

## ***FIRE COMMISSIONERS***

### **Washington State Fire Commissioners Legal Duties and Responsibilities**

This four hour class is designed for newly elected commissioners and other department personnel to include chiefs and secretaries.

Topics will include: the relationships of fire protection district commissioners and personnel, delegation of authority, relationships with state and county offices, risk management and insurance, the open public meetings and executive sessions of the board of commissioners, the open Public Records Act, ethics and conflicts of interest issues. The presentation will also cover: compensation to commissioners, paid and volunteer personnel, volunteer firefighter associations, career firefighters and labor unions and issues related to finances: revenue sources, tax levies, budgets, lid lifts, debt limitations and elections. The presentation includes pertinent legal issues facing fire districts today.

## ***LAW AND PSYCHOLOGY***

### **Behavioral Health and Suicide Prevention**

This four hour (4) class will be presented by Dr. Beth Murphy PsyD, retired firefighter and clinical psychologist. There has been an increase in firefighter suicides over the past few years and this class is designed to teach firefighters, firefighters and others the importance of recognizing the signs and symptoms of firefighters in distress. Is it the calls for service, home life, financial stress and other factors leading up to your firefighters committing suicide? Dr. Murphy discusses the concept of Psychological First Aid, discusses Initiative 13 (Firefighter Life Safety Initiative) addressing tools and resources for firefighters and EMS professionals and their families must have to deal with the various complications that their jobs can bring to their lives, especially issues regarding emotional and psychological stress.

### **Legal and Psychological impact of Workplace Harassment**

Discrimination in the fire service is a major distraction and moral buster for the firefighters and fire officers. The legal effects are well publicized but the psychological effects are not so well known or admitted. The aftermath of a legal “victory” for either party leaves lasting and lingering psychological effects on the performance of the firefighters; results in terminations, demotions and resignations

The psychological impact is equally harmful to the internal and external community at large as it may affect the delivery of important emergency services.

What are the fire officers and firefighters responsibilities in the identification and mitigation of these issues? This four (4) hour class is designed to assist staff officers, fire officers, fire chiefs and firefighters in the identification of discrimination behaviors from a psychological and legal point of view, evaluate two recent legal cases and their

outcomes to provide a risk analysis from the psychological and legal standpoint for participants.

### **Firefighter Arsonists – Stopping the problem at the Firehouse door.**

This three (3) hour educational program discusses and provides best practices pathway related to the hiring of firefighters both career and volunteer. Many fire departments have a comprehensive program for hiring career firefighters but fall short of those requirements when addressing volunteer firefighters. All too often we see our volunteer firefighters the topic of investigation for arson and other criminal acts. What can you do to prevent these events from occurring in your department? We will discuss a best practices approach for recruiting, testing, hiring and retaining your volunteers to include psychological testing, background checks and probation period. We will also provide some insight as to what to do with those who do not pass this entry level testing process

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## ***RATE SHEET AND COSTS***

Each class is custom designed for the individual fire department. In order to have these sessions customized and depending on the class, we will first interview the Training Officer, Fire Chief, HR Director and other key personnel to determine the current issues facing the department and design the educational program(s) to assist the department in resolving or working through those issues. This usually takes two to three hours per individual interviewed.

**POWER POINT** - After discussion with the key personnel in the department, we will customize a PowerPoint program lecture with handouts.

**HANDOUTS** - Handouts are printed by the department and a PDF file of that handout is provided to the department. The Masters are provided to the department at no charge

**PRESENTATIONS** - All presentations are interactive. Our teaching philosophy is that firefighter learning improves the more involved the firefighters are in teaching the class through their experiences along with the instructor. These are interactive and on some presentations role play is involved.

### ***COSTS:***

**Contracts** – We do not require a contract for services. We firmly believe in handshake deals and trust the integrity of the fire department to uphold their part of the agreement. On more complex engagements and if required by the fire department, we will provide a written scope of work for review by the department and the costs. We will sign a W-9 at the request of a contracting fire department.

**Preliminary discussions** held with key personnel for the purposes of developing the curriculum and development of the programs are limited to two billable hours at \$100.00 per hour per individual interviewed. Any additional time in excess of the two hours is not charged.

**Creating customized Power Point** – limited to three billable hours at \$200.00 per hour

**Handouts** – see above, no charge

**Educational sessions** are \$200.00 per classroom hour.

**Driving Mileage** –currently \$.54 cents per mile round trip

**Flight, Lodging and Meals** – We will request a prepaid retainer for these costs and will provide those expense estimates to the department prior to travel to the educational site.

**BILLING** – I bill the department after the session is concluded understanding the timing and payment process of fire departments in processing the billing statement. Bills are due 30 days after submission.

## ***BIOGRAPHIES***

**JOHN K. MURPHY, JD, MS, PA-C, EFO** retired as a Deputy Fire Chief after 32 years of career service; is a practicing attorney, whose focus is on employment practices liability, training safety, employment policy and practices, forensic evaluation on fire operations, internal investigations and consulting on risk management for private and public entities. His past fire experience has been as a Navy Corpsman, a paramedic firefighter for more than 20 years and a chief fire officer with responsibilities as the Chief of Training, Chief of Operations and a promoter and facilitator of health-care and safety issues in the fire service. He is a licensed Physicians Assistant practicing since 1977 with a focus in family practice, urgent, emergency care and occupational medicine. He is an educator on legal, ethical and medical issues at local, state and national fire service conferences and a frequent contributing author to Fire Engineering.

**Dr. BETH L. MURPHY, PsyD**, retired as a firefighter after 12 years of service to pursue and complete her Doctorate in Clinical Psychology. She is a practicing clinician with a focus on workplace stress, PTSD, cancer survivors and TBI. Her population focus is on police and fire agencies, as well as military personnel. While in the fire service, she was a firefighter/EMT and member of the department’s hazardous materials response unit. She was also a member of the Fire Department’s Peer Support Team, which provided day-to-day support for fire personnel as well as critical incident stress management (CISM). She is a contributing author to Fire Engineering and a national educator on firefighter behavioral health, mental health and suicide prevention.