



Basic Emergency Vehicle Operators Course

Legal Aspects

F1





Legal Aspects

Goal:

Make emergency vehicle instructors/operators aware of the legal ramifications of driving, with special attention to tort and constitutional liability for improper actions.





Legal Aspects

Objectives:

By the end of this module students shall;

Identify statutory laws, case law, agency policy and principles of liability governing non-emergency driving

Identify statutory law, case law, agency policy, and principles of liability governing emergency driving.

Identify constitutional law, statutory law, and case law, governing civil liability for emergency driving that “shocks the conscience” (pursuits) in its deprivations of constitutional rights.

Identify constitutional law, statutory law, case law, governing emergency driving as use of deadly force in termination pursuits





Legal Aspects

Overview of General Rules

Unless a statutory exemption applies, an EV operator driving an authorized emergency vehicle is subject to the same traffic laws that govern a private citizen driving a personal vehicle.

EV operators are never exempt from all civil and criminal law governing vehicle operation.

Even the most serious emergency does not legally excuse a reckless disregard of the safety of others.

Emergency exemption statutes allow EV operators to disregard some traffic laws under limited circumstances. Failure to meet the requirements of an exemption statute mean the operator may be subject to civil and criminal penalties in the event of a collision.





Legal Aspects

Overview of General Rules

Unless a statutory exemption applies, an EV operator driving an authorized emergency vehicle is subject to the same traffic laws that govern a private citizen driving a personal vehicle.

Emergency exemption statutes typically apply only while the operator is responding to an emergency or enforcing the law.

Emergency exemption statutes typically require operation of warning lights and a siren at all times while the exemption is claimed.

Emergency exemption statutes require “DUE REGARD” for the safety of others and do not excuse reckless disregard of the safety of others.





Legal Aspects

Overview of General Rules

Unless a statutory exemption applies, an EV operator driving an authorized emergency vehicle is subject to the same traffic laws that govern a private citizen driving a personal vehicle.

Negligence in emergency vehicle driving is the failure to use the care of a REASONABLE PERSON would use under like circumstances.

Negligent driving may result in civil liability against the operator, the operator's supervisor and the operator's employing agency.

Willful, reckless driving causing a fatality may result in a person's conviction for felonious involuntary manslaughter.





Legal Aspects

Regulations

Types of regulations to follow:

Traffic laws (host nation, state, county, city)

DoD – OPNAV – MCO – Instructions

Local base policy

Departmental policies

Standard operating procedures (SOP)

Instructor Note:

Have handouts of state law on emergency vehicle exceptions.





Legal Aspects

Sovereign Immunity

Provided protection for governmental agencies in the past

Now civil lawsuits are permitted under certain circumstances

In the past

- “The King could do no wrong”

Today

- “The King shall do no wrong”

Citizens free to hold governmental agencies accountable for their actions





Legal Aspects

Interpreting the Law

Collisions are not accidents

Actions will be judged by others

Superiors

- Review Boards

Courts

- Trial by Judge
- Trial by Jury





Legal Aspects

Your actions will be judged by others from two aspects:

Did a true emergency exist?

Did the operator exercise due regard?





Legal Aspects

TRUE EMERGENCY

What is a true emergency?

True emergency

- Situation in which there is a high probability of death or serious injury to an individual or significant property loss, and action by an emergency vehicle operator may reduce the seriousness of the situation
- Exemptions are only used in a true emergency situation. Definition is unclear. Has to be determined by the department





Legal Aspects

Who decides what is a true emergency?

Dispatcher - Call taker.

Nature of the call.

Supervisor

Sometimes you will make the call.

You should always ask yourself is there a high probability of death or serious injury to an individual or significant property loss, and action by an emergency vehicle operator may reduce the seriousness of the situation.





Legal Aspects

DUE REGARD

What is DUE REGARD for the safety of others?

An accepted definition of DUE REGARD is:

- A reasonably careful person. Performing similar duties and under similar circumstances, would react in the same manner





Legal Aspects

What is DUE REGARD for the safety of others?

In judging, courts will consider:

Speed of vehicles

Traffic density

Weather conditions

Obstruction to vision

Condition of EV's brakes, steering, suspension etc.

Training and experience of the EV operator





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LIABILITY

What is “LIABILITY” ?

In law a legal liability is a situation in which a person is legally responsible, such in situations of tort concerning property or reputation and, therefore, must pay compensation for any damage incurred; liability may be civil or criminal

Guidelines to use:

- **Amenability or responsibility an obligation one is bound in law to perform.**
- **Condition of being responsible for a possible or actual loss, penalty, evil or expense.**
- **Condition which creates a duty to perform an act immediately or in the future.**





Legal Aspects

TORT LIABILITY

- A "tort" is an injury to another person or to property, which is compensable under the law. Categories of torts include negligence, gross negligence, and intentional wrongdoing. Negligence is the most common type of tort, and the only type for which the government can be liable. To give rise to a legal claim in negligence, an act (or inaction) must satisfy four elements:
 - there must be a legal duty of care to another person;
 - there must be a breach of that duty;
 - the claimant must have suffered damages, and
 - the damages must have been proximately caused by the breach of duty.





Legal Aspects

VICARIOUS LIABILITY

What is “VICARIOUS LIABILITY” ?

Under a rule of tort law called vicarious liability, an employer is also liable if an employee is negligent and causes the injury while working within the course and scope of employment.

The imposition of liability on one person for the actionable conduct of another, based solely on the relationship between the two persons.



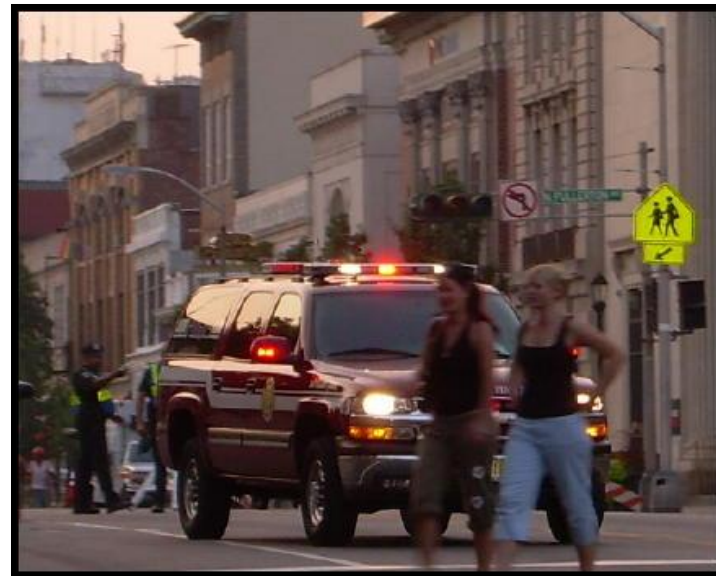


Legal Aspects

RESPONSIBILITY

What is “RESPONSIBILITY” ?

Legally or ethically
accountable, answerable,
LIABLE amendable, implies
trustworthy performance of
fixed duties and consequent
awareness of the penalty for
failure to do them.





Legal Aspects

The Federal Drivers Act

- Congress enacted the Federal Drivers Act ("Drivers Act"), 28 U.S.C. Â§ 2679(b)-(e), in 1961 to relieve government drivers from the burden of personal liability for claims arising from vehicular accidents occurring during their course of employment. Unlike many employers, the United States neither maintained liability insurance to protect its employees nor assisted them in paying for their own insurance against on-the-job accidents. Congress immunized individual federal drivers from tort liability arising out of accidents caused by their negligence. In lieu thereof, the Drivers Act limited persons injured by federal drivers to statutory remedies against the United States.





Legal Aspects

U.S. Supreme Court Case – Canton v. Harris (42 U.S.C. § 1983)

Opinion of the Court:

In this case, the court was asked to determine if a municipality or government agency can ever be liable under for constitutional violations resulting from its failure to train their employees with adequate training in areas integral to the scope of their duties. We hold that, under certain circumstances, such liability is permitted by the statute.

The key word here is adequate because its meaning can take on many interpretation, depending on who the reader is

Adequate training can also be simplistic or complex, depending on the scope of what is being taught.





Legal Aspects

Emergency Driving

All states give EV operators limited exemption from certain traffic laws for emergency driving. This exemption recognizes the social importance of rapid response.

What are these exemptions?

Speed

Traffic lights

Stop Signs

Parking





Legal Aspects

Emergency Exemption Statutes

The vehicle must be an authorized emergency vehicle equipped with specified warning lights and siren.

To claim the exemption the EV must be responding to an emergency call or suspected violator of the law

The exemption may allow the authorized EV to park or stand, exceed speed limits, proceed past traffic signals, and stop signs, and disregard rules governing direction of travel or turning.

The exemption applies only if required warning devices are being operated.
(both lights and siren)

The emergency exemption statutes never allow the EV operator to disregard all traffic laws or rules of the road.

Nearly all emergency exemption statutes provide for a **“duty to drive with due regard for the safety of others”**.





Legal Aspects

Agency Policies Regarding Emergency Driving

Many agencies have standard policy manuals (SOP) covering emergency and non-emergency driving.

The written policy of an agency is a statement of rules.

Some SOP's or departmental policies have nothing to do with the rules of law.

Speed exemption statutes prohibit unsafe speeds, but do not always specify a maximum speed limit.

Violation of an agency or departmental policy can lead to disciplinary action, including job loss. Even if state law is not violated.





Legal Aspects

Agency Policies Regarding Emergency Driving

Pursuit Driving – Police

Courts increasingly are finding pursuing officers civilly liable for injuries suffered by a member of the public who is struck by either the fleeing suspect or EV.

Courts have stated that a negligent failure to terminate a pursuit has been deemed to be a joint cause of the collision.

Most states have felony fleeing laws now.

Department needs to have some kind of SOP's on pursuits.

Speed exemption statutes prohibit unsafe speeds, but do not always specify a maximum speed limit.





Legal Aspects

Agency Policies Regarding Emergency Driving

Use of Deadly Force – Police (Roadblocks, Ramming, etc)

Using a vehicle to block or ram a fleeing suspect may be deadly force, subject to the same laws that apply to firing a gun to prevent escape of a suspect.

Use of a roadblock or ramming may be a “seizure” subject to the reasonableness standard under the Fourth Amendment.

The threat to the public must be extremely high and alternatives to deadly force should be unsuccessful or clearly impractical.





Legal Aspects

Instructor Note:

The following slides contain an example from each of the emergency services on legal aspects. Please feel free to update with any new or local cases that may apply.





Legal Aspects

Interpreting the Law Case History

PENDING

(Los Angeles, CA - Fire Dept. – May 5, 2005)

A city fire truck collided with two other vehicles in the North University Park area near USC, killing a woman and leaving seven others with “moderate to serious” injuries”. Deputy Fire Chief Andy Fox said the truck was one of two units en-route to a structure fire, with full emergency lights and siren operating, when the crash occurred. The result of the crash was eight injuries and one deceased civilian, four firefighters received injuries, one serious, three minor. There were four other civilian injuries, two serious and two minor.





Legal Aspects

Interpreting the Law Case History

PENDING

(Los Angeles, CA - Fire Dept. – May 5, 2005)





Legal Aspects

Interpreting the Law Case History

PENDING

(Los Angeles, CA - Fire Dept. – May 5, 2005)

Discussion Slide
Due Regard
True Emergency





Legal Aspects

Interpreting the Law Case History

PENDING

(Los Angeles, CA - Fire Dept. – May 5, 2005)

Court Verdict:

How do you think the jury will rule?





Legal Aspects

Interpreting the Law Case History

CASE HISTORY

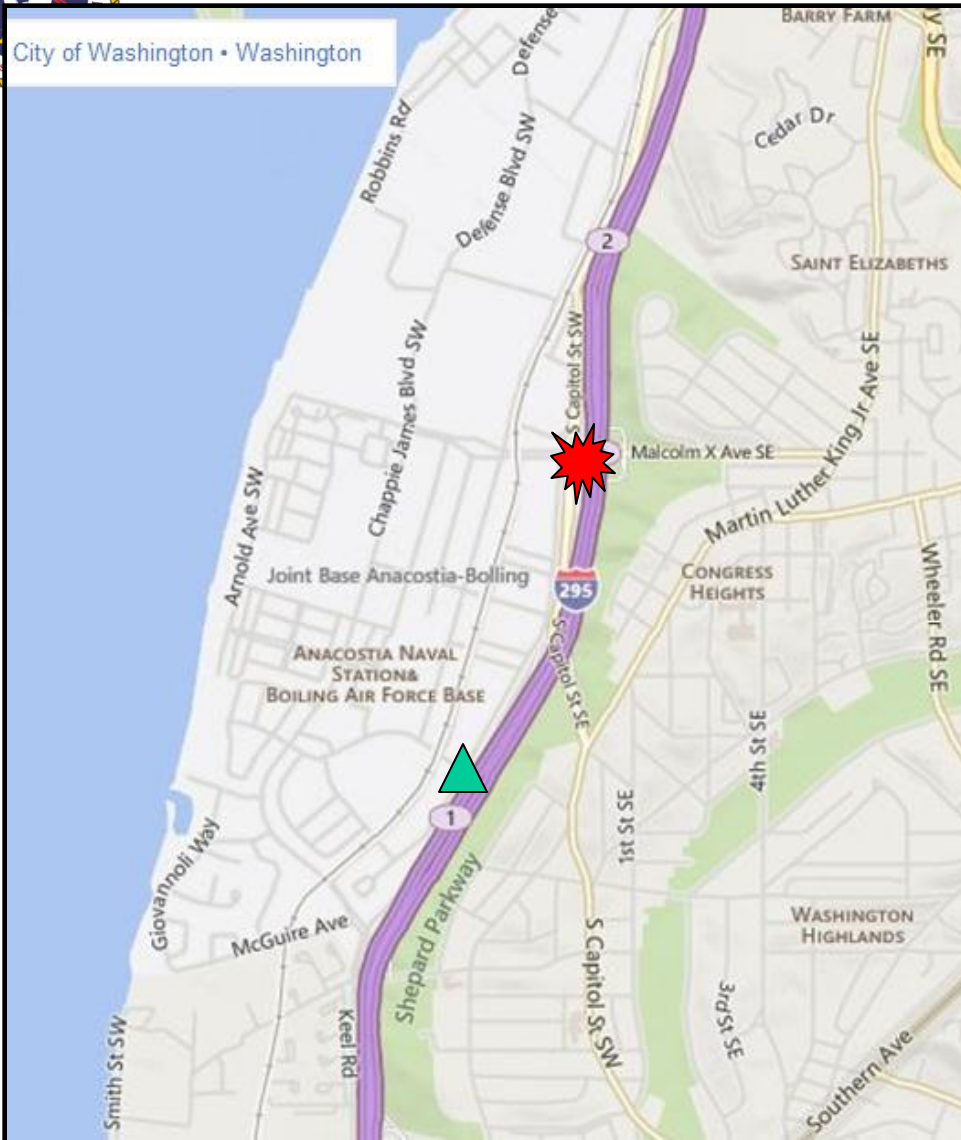
(DoD Police Crash – Washington, DC. – May 28, 2010 @ 0924 hrs)

A Naval Dist. Wash. DoD Police unit was responding to a (self initiated) call for service on a medical emergency. The unit was responding with emergency lights and siren activated from Bellevue housing area Anacostia Navy Annex en-route to Bolling Air Force Base. The PD unit exited the Bellevue gate onto I295 north and exited at Malcom X Ave to enter the Arnold gate at Bolling AFB. At the intersection with South Capital St SE the DoD police unit went through the first intersection and as it was negotiating the second intersection and was struck by a vehicle in the south bound lanes, resulting in a three vehicle crash. The result of the crash were three injuries.





City of Washington • Washington



Point where PD unit exited Navy Annex



Point where PD unit was involved in crash



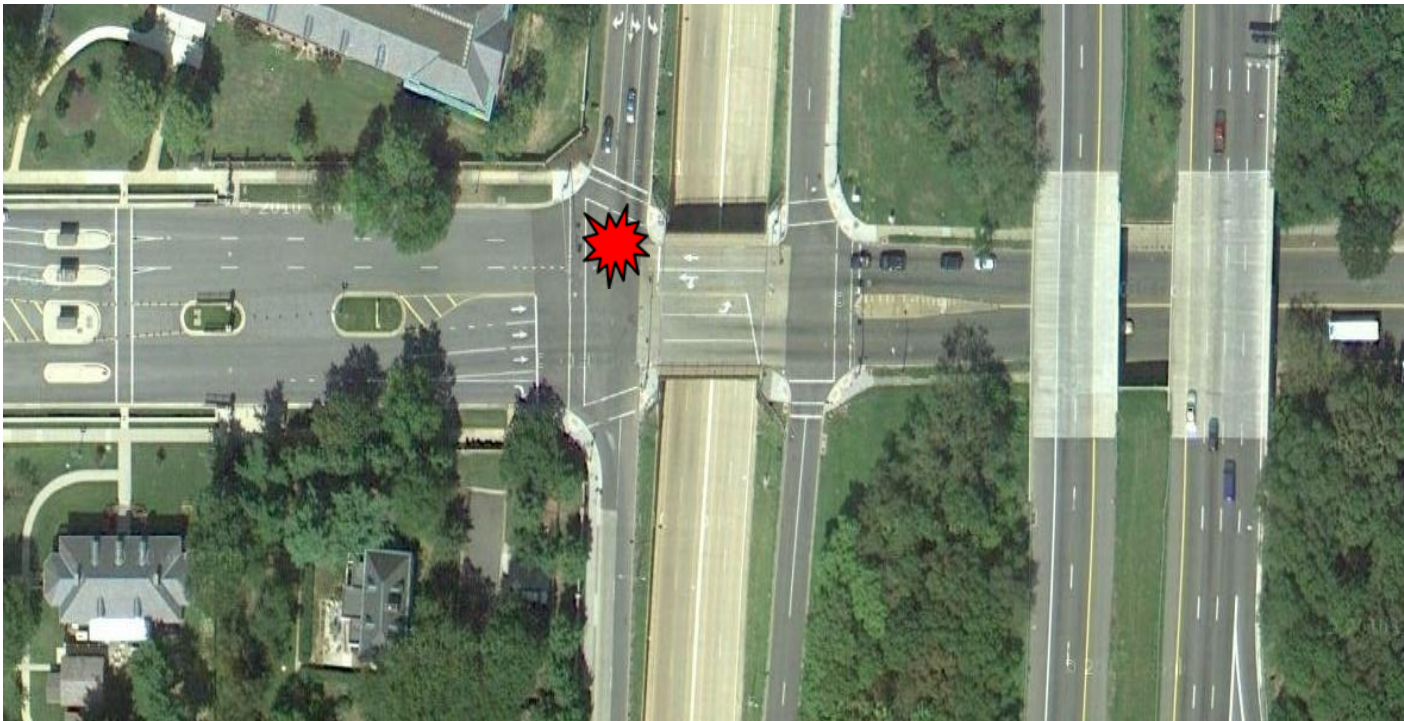


Legal Aspects

Interpreting the Law Case History

PENDING – The Intersection
(OVERHEAD VIEW)

(DoD Police Crash – Washington, DC. – May 28, 2010)





Legal Aspects

Interpreting the Law Case History

PENDING – The Intersection
(DoD Police Crash – Washington, DC. – May 28, 2010)

Malcolm X Avenue Southeast, Washington, District of Columbia, United States
Address is approximate





Legal Aspects

Interpreting the Law

Case History

PENDING

(DoD Police Crash – Washington, DC. – May 28, 2010)

Discussion Slide

Due Regard

True Emergency





Legal Aspects

Interpreting the Law Case History

PENDING

(DoD Police Crash – Washington, DC. – May 28, 2010)

Update 3/2011

NDW Officer was removed from service

Civil Lawsuit Pending

Officer appealing job action to MSPB (Merit Systems Protection Board)





Legal Aspects

Interpreting the Law Case History

Ambulance Crash

(Virginia Beach, VA - EMS Dept. – April 11, 2005)

A Plaza Volunteer Rescue Squad was responding to a call when the ambulance collided with a Mercedes at the intersection. The car was dragged nearly 50 feet and the driver of the vehicle a 34 year old male was killed. The ambulance was responding to an emergency call and had a red light at the intersection. There are conflicting reports on whether its lights and siren were on.





Legal Aspects

Interpreting the Law Case History

Ambulance Crash

(Virginia Beach, VA - EMS Dept. – April 11, 2005)





Legal Aspects

Interpreting the Law Case History

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Discussion Slide
Due Regard
True Emergency





Legal Aspects

Interpreting the Law Case History

Ambulance Crash

(Virginia Beach, VA - EMS Dept. – April 11, 2005)

Update: (June 9, 2005)

Grand Jury returns indictment against driver for involuntary manslaughter and reckless driving.

Update: (August 9, 2006)

Ambulance driver pleads guilty, to Reckless Driving. Circuit Court gave six month jail sentence and two years probation. Ordered not to drive an ambulance for two years.





Legal Aspects

Interpreting the Law Case History

Ambulance Crash

(Virginia Beach, VA - EMS Dept. – April 11, 2005)

Ambulance driver gets 2 years of probation in deadly crash



Jason Frye

By DUANE BOURNE, The Virginian-Pilot

© August 9, 2006 | Last updated 9:42 PM Aug. 8

VIRGINIA BEACH - An ambulance driver accused of driving through a red light and killing a motorist last year pleaded guilty Tuesday to reckless driving.

Jason Frye, now 21, entered an Alford plea, acknowledging that there was enough evidence to convict him, but without admitting he committed the crime.

Prosecutors agreed to drop the original charge of involuntary manslaughter and reduce the traffic offense to reckless driving while exceeding the speed limit.

Circuit Judge Thomas Shadrick gave Frye a six-month suspended jail sentence and two years of probation. Frye also was ordered not to drive an ambulance for two years.





Interpreting the Law Case History

Ambulance Crash

(Virginia Beach, VA - EMS Dept. – April 11, 2005)

Virginia Beach pays \$825,000



Beach to pay \$825,000 to settle lawsuit over ambulance crash By **DUANE BOURNE**, The Virginian-Pilot

© March 27, 2007 | Last updated 11:14 PM Mar. 26

VIRGINIA BEACH - The estate of a 34-year-old man killed in 2005 when his car was hit by an ambulance has settled a lawsuit with the city for \$825,000.

The wrongful death suit, which originally sought \$10 million in damages, was settled in mediation last month after the criminal case against the ambulance driver, Jason Frye, concluded.





Legal Aspects

Instructor Note:

The following slide contains recent news stories of emergency vehicles' involved in motor vehicle crashes. Update as necessary with recent news stories, or incidents you are familiar with that deal with an emergency response mishap/crash.





Legal Aspects – Current News Items

January 07, 2014

Person Injured in Woodland Hills in Crash with LAFD Fire Truck

Los Angeles, CA – An accident involving a fire truck in Woodland Hills Tuesday left a person injured. The accident in the 20900 block of Ventura Boulevard occurred about 12:40 p.m., said Brian Humphrey of the fire department.

Humphrey had no immediate information on how the accident occurred, but he did say the fire truck was responding to an emergency. He described the injured person as a civilian.

Jan 28, 2014

Beverly cop injured after three-car crash

BEVERLY, Mass. A three-car crash in Beverly sent a police officer and another person to the hospital Tuesday. The crash happened around 2:20 p.m. at the intersection of Elliott and Rantoul streets in Beverly. Three cars, including a cruiser, were involved. The officer, Joshua Pickett, was responding to an alarm call and had the cruiser's lights and siren on.

The fire department used the Jaws of Life to get Pickett out of the cruiser after the crash. Pickett and a female operator were transported to Beverly Hospital with non-life threatening injuries.

January 30, 2014

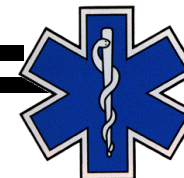
Ambulance involved in crash, 1 person dead

INDIANAPOLIS, IN - Officials say an ambulance was transporting one person to the hospital when it was T-boned by another vehicle. The crash occurred at 11th and Senate Thursday afternoon.

At the time of the crash, the ambulance was transporting one person in cardiac arrest to the hospital. That patient did not survive.

Officials report the patient in cardiac arrest received care throughout the incident.

Officials say two firefighters, one medic, and one EMT were injured in the crash. Their injuries were not life-threatening, but they were transported to Methodist Hospital. The driver of the SUV that hit the ambulance was checked out on scene. They were not transported to the hospital.





Legal Aspects

Summary

All traffic laws that govern the general public apply with equal force to on-duty operators in non-emergency driving.

NO STATE gives its EV operators authority to disregard all traffic laws in performing emergency services.

Exemptions made in the statutes refer to EV only while it is operated in the emergency mode.

No matter what the exemption you can still be held criminally and/or civilly liable for your actions.





REVIEW QUESTIONS

1) Typically when do exemption statutes apply?

2) Define a “True Emergency”?

3) What does the term “Vicarious Liability” mean?

4) Define “Due Regard”?

5) Give an example of an authorized traffic exemption while responding with lights and siren?

