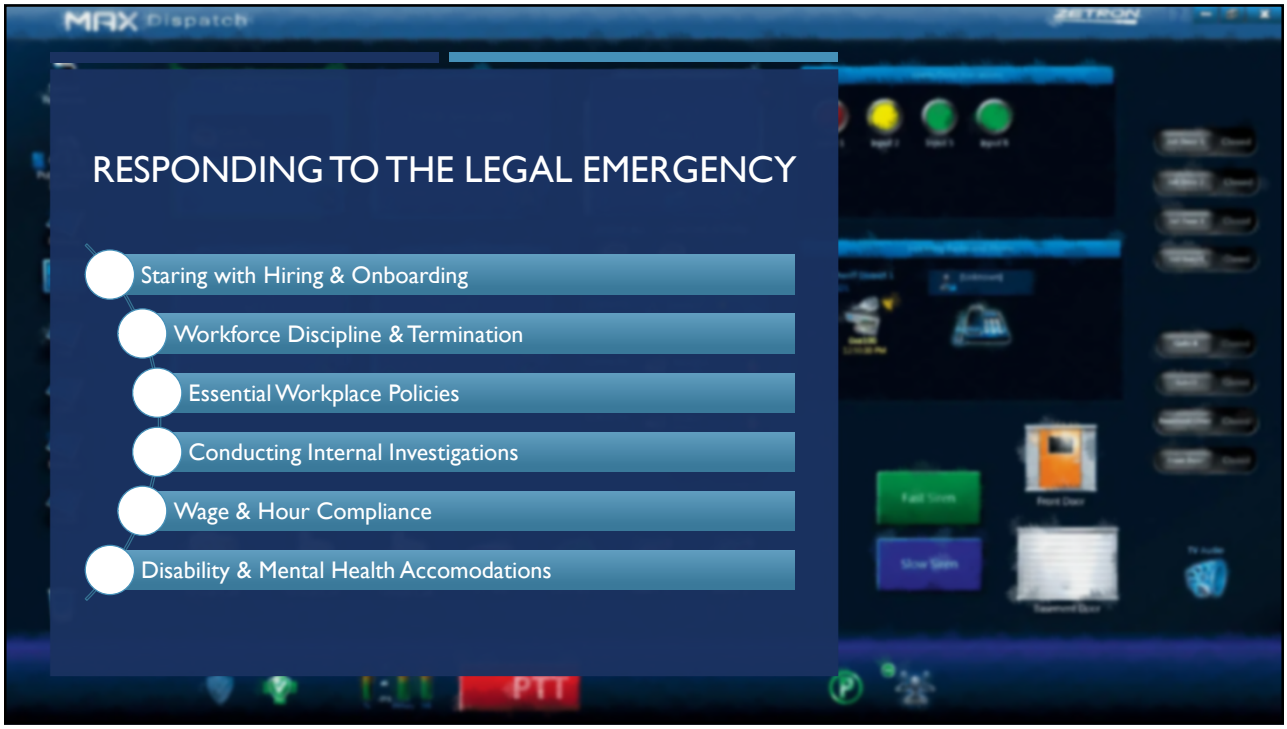
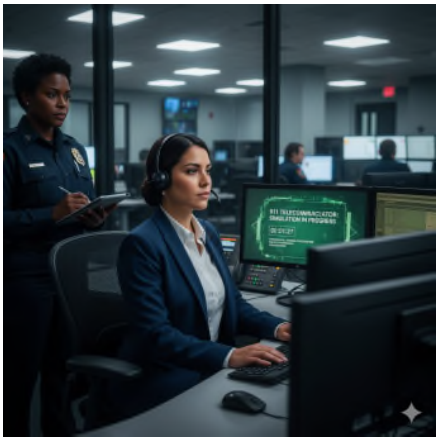

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EMS LEGAL SERVICES


RESPONDING TO THE LEGAL EMERGENCY
Staring with Hiring & Onboarding
Workforce Discipline & Termination
Essential Workplace Policies
Conducting Internal Investigations
Wage & Hour Compliance
Disability & Mental Health Accomodations

BUILDING A LEGALLY DEFENSIBLE TEAM IN TELECOMMUNICATIONS

A legally sound hiring process is the first line of defense against future liability. Every step, from the job description to the final offer, is governed by federal and state law.

- Key Concerns: Fair practices from job posting to job offer
  - **Job Descriptions:** Defining "essential functions" is critical.
  - **Screening Criteria:** Must be job-related and consistently applied.
  - **Background & Medical Checks:** Strict rules on timing and confidentiality.
  - **ADA Compliance:** Ensuring equal opportunity for all applicants.



HIRING: CRAFTING LEGALLY DEFENSIBLE JOB DESCRIPTIONS



The job description is a foundational legal document. Its primary legal purpose is to define the **"essential functions"** of the role under the Americans with Disabilities Act (ADA).

- **Go Beyond Technical Skills:** Essential functions for a dispatcher include critical cognitive and psychological abilities, such as making decisions under extreme stress and multitasking in chaotic situations.
- **Create a Legal Shield:** A detailed description of these demanding functions provides an objective basis for hiring decisions and for later evaluating requests for reasonable accommodation.
- **Legal Precision is Key:** Vague descriptions weaken your legal position. Partner with legal counsel to ensure operational needs are translated into legally precise language.

HIRING: LAWFUL SCREENING & EXAMINATIONS

All screening criteria must be job-related and consistently applied to avoid discrimination claims.

- **Beware of "Disparate Impact":** A seemingly neutral policy, like a blanket ban on certain criminal convictions, could disproportionately affect a protected class and be legally challenged. The EEOC favors an individualized assessment.
- **Medical & Psychological Exams:** These are strictly regulated by the ADA.
  - They can **only** be required *after* a conditional offer of employment has been made.
  - The purpose is solely to determine if the candidate can perform the essential functions, with or without accommodation.
  - Rescinding an offer based on exam results is a high-risk decision that requires legal consultation.



MANAGING THE WORKFORCE DISCIPLINE, PERFORMANCE & TERMINATION



Managing public employees in Missouri is fundamentally different from the private sector. The "at-will" doctrine is significantly constrained by constitutional rights and legal exceptions.

- **Core Concepts:**
  - **Missouri's At-Will Doctrine:** Understanding its limits is crucial.
  - **The Public Policy Exception:** Protects employees from retaliation for "whistleblowing."
  - **Constitutional Due Process:** The most significant legal distinction for public employees.

THE LIMITS OF "AT-WILL" EMPLOYMENT IN MISSOURI

While Missouri is an "at-will" state, this authority is not absolute for public employers.

- **The Public Policy Exception:** An employee cannot be lawfully terminated for refusing to perform an illegal act or for reporting violations of law or public policy (whistleblowing).
- **"Contributing Factor" Standard:** This is a critical legal shift. An employee does not need to prove whistleblowing was the *exclusive* reason for their termination, only that it was a **"contributing factor"**.
- **Increased Risk:** This standard makes it much easier for an employee to bring a retaliation claim and dramatically increases a 911 center's legal exposure. Meticulous documentation of legitimate, non-retaliatory reasons for discipline is essential.



DUE PROCESS PROTECTIONS FOR PUBLIC EMPLOYEES



The 14th Amendment protects public employees from being deprived of a **"property interest"** in their job without **"due process of law"**.

- **What is a "Property Interest"?** It is typically established after an employee successfully completes their probationary period.
- **Pre-Disciplinary Rights:** Before a post-probationary employee can be suspended, demoted, or terminated, they are entitled to:
  - **Notice:** Specific, clear notice of the charges against them.
  - **Explanation of Evidence:** An explanation of the evidence supporting the charges.
  - **Opportunity to be Heard:** A chance to present their side of the story *before* a final decision is made.
- **Failure to provide due process can lead to a federal civil rights lawsuit.**

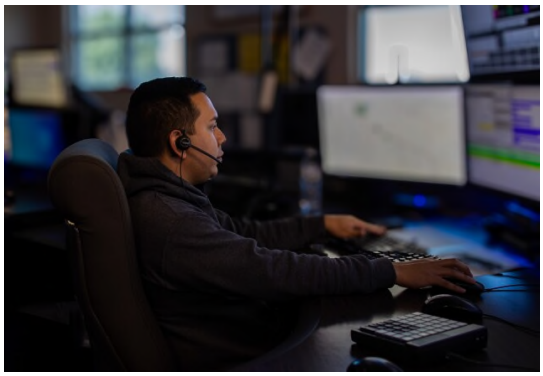
CRAFTING ESSENTIAL WORKPLACE POLICIES

A well-drafted employee handbook is an indispensable risk management tool. It communicates policies, sets expectations, and ensures consistency.

- **A Double-Edged Sword:** While a best practice, a handbook can be a legal pitfall.
- **The Primary Risk in Missouri:** Improperly worded policies can be interpreted by a court as an **implied employment contract**, negating the at-will relationship and restricting management's ability to act.
- **Careful Language is Crucial:** The goal is to provide clear guidance while preserving managerial discretion.



PRESERVING AT-WILL STATUS IN YOUR EMPLOYEE HANDBOOK



To mitigate the risk of creating an unintended contract, every handbook must include clear and conspicuous disclaimers.

- **At-Will Employment Disclaimer:** State unequivocally that employment is at-will.
- **No Contract Clause:** Explicitly state the handbook is not a contract.
- **Right to Modify Clause:** Reserve the right to change policies at any time.

Best Practice: Require every employee to sign a separate acknowledgment form that reiterates these key disclaimers. The form should be kept in the employee's personnel file.

A prompt, thorough, and impartial investigation into complaints of harassment or misconduct is a critical legal defense. A flawed investigation often creates more liability than the original complaint.

- **Duty to Act:** The legal duty is triggered the moment an employer "knew or should have known" about potential misconduct. Supervisors have a **mandatory duty to report** all complaints.
- **Individual Supervisor Liability:** A crucial aspect of Missouri law is that under the Missouri Human Rights Act (MHRA), individual supervisors can be sued and held **personally liable** for their discriminatory actions or for failing to act on a complaint.



CONDUCTING A LAWFUL INTERNAL INVESTIGATION

ESSENTIAL INVESTIGATION PROTOCOL

A defensible investigation is built on promptness, impartiality, and thoroughness.

- **Key Steps:**
  - Select a neutral, trained investigator.
  - Consider interim measures (e.g., schedule change) to prevent further harm or retaliation.
  - Interview the complainant, the accused, and all witnesses.
  - Gather all relevant evidence (emails, records, etc.).
  - Document every step of the process meticulously.
- **Anti-Retaliation is Paramount:** Retaliation is a separate and often easier-to-prove violation of the law. Clearly warn all parties against retaliation and document it.





Compliance with the Fair Labor Standards Act (FLSA) is a major challenge in a 24/7 PSAP. Errors in pay calculation can lead to substantial liability for back wages, damages, and attorneys' fees.

- **Key Risks for 911 Centers:**
  - **Misclassifying Dispatchers:** Incorrectly treating dispatchers as "exempt" from overtime.
  - **Incorrect Overtime Calculation:** Failing to include all required pay (like shift differentials) in the "regular rate."
  - **"Off-the-Clock" Work:** Not paying for pre-shift prep time or required training.

MASTERING WAGE & HOUR COMPLIANCE

FLSA ESSENTIALS FOR 911 TELECOMMUNICATORS

- **Dispatchers are Non-Exempt:** Department of Labor guidance is clear that first responders, including dispatchers, do not meet the tests for "exempt" status and are entitled to overtime pay.
- **The Section 7(k) Trap:** This partial overtime exemption is **only** for employees in "law enforcement" or "fire protection" activities. Federal regulations explicitly state this **does not apply** to civilian dispatchers. Applying it is a systematic FLSA violation.
- **Compensable Training:** Time spent in training that is required by the employer or by state law (like Missouri's "911 Training and Standards Act") is compensable time.



ADDRESSING MENTAL HEALTH & DISABILITY



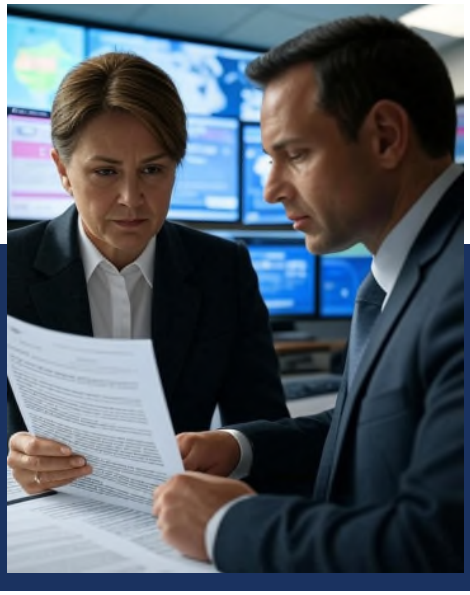
The high-stress nature of dispatching can cause or exacerbate mental health conditions like PTSD and anxiety. Navigating these challenges requires a practical understanding of the Americans with Disabilities Act (ADA).

- **Employer's ADA Duties:**
  - **Non-Discrimination:** Cannot discriminate based on disability.
  - **Reasonable Accommodation:** Must provide reasonable accommodations for known physical or mental limitations, unless it causes an "undue hardship".
- **Supervisor Training is Critical:** Untrained supervisors may see signs of a mental health condition (e.g., irritability, lack of focus) as simple performance issues and move to discipline. This bypasses the legally required "interactive process" and creates significant legal risk.

PROACTIVE RISK MITIGATION

A Strategic Framework

- **Recognizing a Request:** An employee does not need to use the words "ADA" or "reasonable accommodation." A simple statement like, "My doctor said the overnight shifts are making my anxiety worse," triggers the employer's legal duty.
- **A Collaborative Dialogue:** The "interactive process" is a good-faith conversation between the employer and employee to identify the employee's limitations and explore potential accommodations.
- **"Undue Hardship" is a High Bar:** An employer is not required to eliminate an essential function of the job. However, an employer cannot simply declare an accommodation an "undue hardship" without specific, objective evidence of significant difficulty or expense.





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