

MULTNOMAH COUNTY OREGON

DEPARTMENT OF GENERAL SERVICES
COUNTY COUNSEL SECTION
1120 S.W. FIFTH AVENUE, SUITE 1400
P.O. BOX 849
PORTLAND, OREGON 97207-0849
(503) 248-3138

BOARD OF COUNTY COMMISSIONERS
GLADYS McCOY, CHAIR
PAULINE ANDERSON
POLLY CASTERLINE
GRETCHEN KAFOURY
CAROLINE MILLER

M E M O R A N D U M

TO: Jane McGarvin
Clerk of the Board (101/606)

FROM: Sandra Duffy *Sandy*
Assistant County Counsel

DATE: September 6, 1988

RE: Final Order in AA Ambulance Violation
Matter

COUNTY COUNSEL
LAURENCE KRESSEL

CHIEF ASSISTANT
ARMINDA J. BROWN

ASSISTANTS
JOHN L. DU BAY
SANDRA N. DUFFY
J. MICHAEL DOYLE
H. H. LAZENBY, JR.
PAUL G. MACKAY
MARK B. WILLIAMS

Attached in the Final Order in the above-referenced matter. It can be signed by the Chair and then filed. Please return the enclosed postcards when it has been signed.

2372R/dp

cc: Joe Acker (w/encl.)
Chris Thomas (w/encl.)
Pete Kasting (w/encl.)

BOARD OF
COUNTY COMMISSIONERS
1988 SEP - 7 AM 10:47
MULTNOMAH COUNTY
OREGON

1 BEFORE THE BOARD OF COUNTY COMMISSIONERS
2 FOR MULTNOMAH COUNTY, OREGON

3 In the Matter of)
4 AA Ambulance) FINAL ORDER
5 Run #691/208769A)
)

6 This matter came on for hearing on December 21, 1987
7 before Hearings Officer B. B. Bouneff. AA Ambulance was
8 represented by its attorney, Christopher P. Thomas, and
9 Multnomah County Emergency Medical services was represented by
10 its attorney, Sandra Duffy, Assistant County Counsel. After
11 hearing testimony of witnesses; reviewing documentary evidence
12 including tape recordings; reviewing legal memoranda of
13 counsel; hearing argument of counsel; and, considering the
14 relevant portions of the Multnomah County Code and the EMS
15 Rules, the Hearings Officer found, pursuant to MCC 6.31.180(g)
16 and in accordance with Attorney General's Model Rules of
17 Procedure Rule 137-03-070, as follows:

18 1. EVIDENCE.

19 Exhibits 1, 2, 7, 8, 9, 10, 11, 12, 14, 16, 17,
20 18, 19, 20, 21 and 22 are admitted into evidence. Exhibits 3,
21 4, 5, 6, 13 and 15 are not admitted into evidence.

22 2. FINDINGS OF FACT.

23 On April 13, 1987 AA Ambulance Unit Number 61
24 (AA61), an advanced life support (ALS) ambulance, left the
25 scene of an emergency response at 3:23 p.m. At 3:24 AA61 was
26 en route to Providence Hospital with the patient when she began

1 to have a seizure. Emergency Medical Technician (EMT) Filler
2 had the driver, EMT Hernandez, stop and help position the
3 patient for life saving procedures.

4 AA61 called the AA Ambulance dispatcher and asked
5 for a backup car (an ALS ambulance with two Emergency Medical
6 Technicians, Class IV on board). AA61 testified they called
7 the AA dispatcher rather than Emergency Medical Services (EMS)
8 Central Dispatcher because the radio transmitting to AA was
9 more accessible. Evidence indicated the AA radio was in the
10 front of the vehicle. AA Dispatch sent AA51 to meet AA61. At
11 3:30 p.m. AA51, also an ALS ambulance, informed EMS Dispatch
12 office that they were en route to N.E. 7th and Alberta to
13 assist AA61. AA51 explained it was backing up AA61. Evidence
14 indicates that EMS Dispatch was unsure as to what was occurring
15 and at 3:32 p.m., EMS Dispatch Office telephoned AA Dispatch to
16 find out what AA51 was doing. AA51 arrived at AA61's location
17 and dropped off an EMT from AA51 who drove AA61 Code 3 to
18 Emanuel Hospital at 3:38 p.m.

19 At 3:39 p.m. AA51 informed EMS Dispatch Office
20 that it was out-of-service because his partner was with AA61.
21 Evidence was introduced to indicate that the 7th and Alberta
22 location was within AA Ambulance's service area. Undisputed
23 evidence indicated that when AA dispatched AA51, there were
24 more than eight ALS ambulances available for call in Multnomah
25 County. Further evidence indicated that at the time AA had
26 more than 50% of its ALS ambulances available within its

1 service area, and AA's ambulances served both as ALS and Basic
2 Life Support (BLS) ambulances.

3 I believe the crux of the matter is whether or
4 not the EMS Rules require specifically the crew of the
5 ambulance to request the EMS dispatch office for an additional
6 vehicle or whether such request could be from AA Ambulance's
7 dispatcher or other agent. It is also crucial as to whether or
8 not such dispatch or additional vehicle could be on the order
9 of other agencies other than the EMS dispatcher.

10 There was conflicting evidence regarding the
11 radio call from the crew of AA61 for backup. AA Ambulance
12 stated that the crew of AA61 called for a driver. The County
13 alleged that the request was for "a car Code 3" (an ALS
14 ambulance with two Emergency Medical Technicians, Class IV, on
15 board). While the three tape recordings are of terrible
16 quality, all three agree on the salient points. I find that
17 all three tapes indicate that the request was for a car Code 3,
18 and not for a driver.

19 However, I also find that the AA dispatcher and
20 the crew of AA51 (the backup ALS ambulance which responded to
21 AA61's request) did advise the EMS Central Dispatch office of
22 the request on the part of AA61 and the status of the two
23 vehicles.

24 3. CONCLUSIONS OF LAW.

25 a. AA Ambulance did not assert that it had the
26 authorization of the Emergency Medical Services Dispatch Office

1 prior to dispatching AA51 to backup AA61. It did assert,
2 however, that other provisions of the County Code and/or the
3 EMS Rules allowed such a dispatch. I find that AA Ambulance
4 violated EMS Rule 6.31.390(C)¹ by responding by ambulance to
5 an emergency call without the authorization of Emergency
6 Medical Services Dispatch office or under any other provision
7 of MCC 6.31.

8 b. I find that AA Ambulance violated Multnomah
9 County Code 6.31.190(G)² by responding by ambulance to an
10 emergency call without the authorization of Emergency Services
11 Dispatch Office or under the authority of any other provisions
12 of this ordinance or EMS Rule.

13

14

15

16 ¹ EMS Rule 631-390(C) provides: "Prohibited activities. No
17 applicant or licensee, applicant's or licensee's employee
18 or any other person doing business as defined in MCC 6.31
19 shall:

18 * * *

19 (C) Respond by ambulance to an emergency call unless so
20 authorized by the Emergency Medical Services Central
21 Dispatch Office or under MCC 6.31."

22 ² MCC 6.31.190(G) provides: "Prohibited activities. No
23 applicant or licensee, applicant's or licensee's employee
24 or any other person doing business as defined hereunder
25 shall:

24 * * *

25 (G) Respond by ambulance to an emergency call unless so
26 authorized by the Emergency Medical Services Central
Dispatch Office or under a provision of this ordinance
or rule adopted hereunder."

1 c. I find that AA Ambulance did not violate
2 MCC 6.31.190(F)³ because the AA dispatcher and crew of AA51
3 advised the EMS Central Dispatch office of the request on the
4 part of AA61 and the status of the two vehicles.

5 d. I find that EMS Rule 631-320(F) does not
6 apply in this situation.⁴

7

8

9 ³ MCC 6.31.190(F) provides: "Prohibited activities. No
10 applicant or licensee, applicant's or licensee's employee
11 or any other person doing business as defined hereunder
12 shall:

11 * * *

12 (F) Fail or refuse to promptly advise the Emergency
13 Medical Services Central Dispatch Office of receipt of
14 a request for emergency medical assistance of when a
15 licensee's ambulance becomes available or
16 non-available to respond to dispatch order.

15 ⁴ EMS Rule 631-230(F) and (G) provide:

16 "(F) A licensee shall be deemed to have a standing
17 authorization to respond by ambulance to an emergency call
18 received by the licensee, and may, accordingly, immediately
19 respond to the call, provided that:

19 "(1) The licensee's dispatcher relays the information
20 required in paragraph (B) of this rule [location and
21 nature of emergency and telephone number of caller],
22 including the unit number of the ambulance, and the
23 location from which it is responding, to EMS Central
24 Dispatch immediately after dispatching the ambulance.

22 "(2) The call is in the licensee's ambulance service
23 area; and,

24 "(3) The licensee has more than 50% of its ambulances
25 available within its ambulance service area.

25 "(4) A licensee shall utilize the triage guide adopted
26 under these rules in determining whether a call
27 requires an emergency response.

1 e. I find that during the pertinent times
2 herein, AA did not take AA51 out of service.⁵

3
4

5 "(5) EMS Central Dispatch may cancel any ambulance
6 dispatched by a licensee under this standing
7 authorization rule."

8 "(G) The provisions of paragraph (F) of this rule shall not
9 apply where an ambulance crew determines that there is
10 a need for one or more additional vehicles at the
11 scene of an emergency. Where such a determination is
12 made, the ambulance crew shall promptly contact EMS
13 Central Dispatch to request the additional vehicles.
14 the crew shall advise EMS Central Dispatch of the
15 number and types of units needed."

16 ⁵ EMS Rule 631-316, 631-314, and 631-320(E) (5) provide:

17 "631-316 A licensee's ambulance may be taken out of service
18 to the EMS Central Dispatch system if there are more than
19 eight licensed ALS-staffed ambulances available for calls
20 in Multnomah County. . ."

21 "631-314 The Crew of each vehicle shall promptly inform EMS
22 Central Dispatch of the following changes in status by
23 radio:

24 ". . .

25 "(I) Out of service (no longer available to respond to
26 dispatch orders from EMS Central Dispatch.)"

"631-320(E) (5) Licensee's BLS ambulance may respond Code-3
to the scene of an emergency under the following conditions:

27 "(a) An ALS ambulance requests addition manpower at
28 the scene of an emergency and the ALS ambulance
29 transports the emergency patients; or

30 "(b) Licensee determines that its BLS ambulance is
31 near the scene of an emergency and can arrive before
32 the ALS ambulance; and

33 "(c) Licensee advises EMS Dispatch by radio or
34 telephone of the number of the unit responding, the
35 location from which the unit is responding and the
36 location of the emergency.

1 4. ORDER.

2 The Board of County Commissioners accepts the
3 proposed final order of the hearings officer, however the fine
4 of \$250.000 levied by the Director of Emergency Medical
5 Services is lifted.

6 5. APPEAL RIGHTS.

7 a. Reconsideration. MCC 6.31.184 provides that
8 the BCC may reconsider a final order upon the filing of a
9 petition for reconsideration within 15 days after issuance of
10 the order. If no action is taken by the BCC within 15 days
11 after the petition is filed, the petition shall be deemed
12 denied. If the petition is allowed by vote of the BCC, a
13 hearing on the reconsideration shall be held and an amended
14 order shall be issued.

15 b. Judicial Review. Review of the action of
16 the BCC shall be taken solely and exclusively by writ of review
17 in the manner set forth in ORS 34.010 to 34.100.

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1 THIS FINAL ORDER IS ADOPTED this 23rd day
2 of August, 1988.

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(SEAL)

BOARD OF COUNTY COMMISSIONERS
MULTNOMAH COUNTY, OREGON

By *Gladys McCoy*
Gladys McCoy
Multnomah County Chair

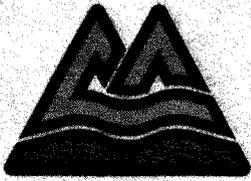
9 APPROVED AS TO FORM:

10 LAURENCE KRESSEL, COUNTY COUNSEL
11 FOR MULTNOMAH COUNTY, OREGON

12 By *Sandra Duffy*
13 Sandra Duffy
Assistant County Counsel

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MULTNOMAH COUNTY OREGON

BOARD OF COUNTY COMMISSIONERS
ROOM 605, COUNTY COURTHOUSE
1021 S.W. FOURTH AVENUE
PORTLAND, OREGON 97204

GLADYS McCOY • Chair • 248-3308
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GRETCHEN KAFOURY • District 2 • 248-5219
CAROLINE MILLER • District 3 • 248-5217
POLLY CASTERLINE • District 4 • 248-5213
JANE McGARVIN • Clerk • 248-3277

August 23, 1988

Ms. Gladys McCoy, Chair of the Board
1021 SW Fourth, Room 134
Portland, OR

Dear Ms. McCoy:

Be it remembered, that at a meeting of the Board of County Commissioners held August 23, 1988, the following action was taken:

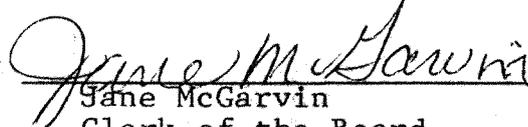
Informal Briefing to provide information to the Board about areas to be annexed and methodology of annexation for FY 1988-89 - Susan McPherson, City of Portland)))

Susan McPherson, City of Portland Urban Services Manager, reported progress has been made since her last quarterly report. She has been busy organizing her office and staff through the implementation of a computerized data base, and staff training for the new method of annexation which requires a lot of data. The focus of the program is field services through door-to-door contacts. The City of Portland approved 22 annexation intent areas on June 1 as the first round to be completed this fiscal year; two more rounds will be attempted this fiscal year. The process now is different in that the staff can legally go into the intended annexation areas; talk to property owners; request consent to annex signatures; send out letters; and attend meetings. This authority was given by the last Legislature. She submitted copies of the City of Portland Resolution subsequent to the reaffirmation of City Policy last spring along with maps of the twenty two areas approved by City Counsel for annexation intent. She discussed these areas with the Board, and indicated County locations from a large map. The intent of the program is to eliminate islands of non-annexed areas and to develop service area boundaries. The first round is to attempt to finalize annexation for areas where citizens have opposed annexation the most. She stated Kelly Butte Park will be developed and maintained once the area is annexed. Plans and funding are ready once annexation is complete. Neighborhood meetings have been scheduled for the second week in September, and her office is working with neighborhood groups and individuals who live in the area to arrange

the meetings and develop service plans. She said it is now necessary to get 50% of the property owners consent for annexation. She discussed the difference between triple majority annexations and the present requirements; and stated door-to-door urban surveys will be taken. At the same time, property owners can be asked for consent to annex signatures, and be given urban service information. Program staff are hired on a contractual basis at \$5.00 per hour. Numbers of staff to be hired are limited by the time she has to devote to training which is done on a one-to-one basis. Computerization has helped with determining who the property owners are, and who are registered to vote. She discussed the areas on Hayden Island that still need to be annexed, and stated those annexed areas now receive Bull Run water, and sewer services. The focus for this area is to work with mobile home and condominium owners. She added there is no way to pre-determine when an area will be annexed; that annexation comes when the 50% requirements are completed. She urged the Board to work with City Attorney and her office to encourage citizens to annex.

Very truly yours,

BOARD OF COUNTY COMMISSIONERS

By 
Jane McGarvin
Clerk of the Board

jm

DATE SUBMITTED July 28 1988

(For Clerk's Use)
Meeting Date _____
Agenda No. _____

REQUEST FOR PLACEMENT ON THE AGENDA

Subject: Urban Services/Annexation Briefing

Informal Only* August 25, 1988 A.M.
(Date)

Formal Only _____
(Date)

DEPARTMENT Chair DIVISION _____

CONTACT G. Nelson TELEPHONE 248 3308

*NAME(S) OF PERSON MAKING PRESENTATION TO BOARD S. McPherson/G. Nelson

BRIEF SUMMARY Should include other alternatives explored, if applicable, and clear statement of rationale for the action requested.

To provide information to the BCC about areas to be annexed and methodology of annexation for FY 1988-89.

(IF ADDITIONAL SPACE IS NEEDED, PLEASE USE REVERSE SIDE)

ACTION REQUESTED:

INFORMATION ONLY PRELIMINARY APPROVAL POLICY DIRECTION APPROVAL

INDICATE THE ESTIMATED TIME NEEDED ON AGENDA 30 min.

IMPACT:

PERSONNEL
 FISCAL/BUDGETARY
 General Fund
 Other _____

BOARD OF
COUNTY COMMISSIONERS
1988 AUG 17 PM 4:44
MULTNOMAH COUNTY
OREGON

SIGNATURES:

DEPARTMENT HEAD, ELECTED OFFICIAL, or COUNTY COMMISSIONER: Gladys McCoy^{tel}

BUDGET / PERSONNEL _____

COUNTY COUNSEL (Ordinances, Resolutions, Agreements, Contracts) _____

OTHER _____
(Purchasing, Facilities Management, etc.)

NOTE: If requesting unanimous consent, state situation requiring emergency action on back.

August 23, 1988

Discussion regarding affirmative action for)
construction of the Convention Center)

Commissioner McCoy announced that the contract with Portland Oregon Business Association (POBA) has just been signed for approximately \$900,000 to promote the Convention Center. The contract contains a clause that states if sub-contracting is done, 7% will be provided by minority and women vendors. However, POBA has not been pro-active. Commissioner McCoy talked to Charles Allers last week, and his intent was not to be pro-active, but as a result of their discussion, she assured him the Board was vitally interested in affirmative action, and that some of the money must be spent with minority and women-owned businesses. He claims there are not enough people in the field to do convention sales and marketing; but agreed to implement an intern program to train people, and to prepare an affirmative action plan by the end of September. She will send a letter to the Board, POBA, and Metro regarding those agreements.

Commissioner Kafoury reported she has received complaints that the Convention Center is not using minority contractors.

Commissioner McCoy stated there is no indication at this point that minorities are involved.

Following discussion, it was decided the Chair will draft a letter to Metro indicating the Board wants to change that policy. The Board will sign the letter.



MULTNOMAH COUNTY OREGON

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JANE McGARVIN • Clerk • 248-3277

August 23, 1988

Mr. Duane Zussy, Director
Department of Human Services
426 SW Stark
Portland, OR

Dear Mr. Zussy:

Be it remembered, that at a meeting of the Board of County Commissioners held August 23, 1988, the following action was taken:

In the matter of a public hearing concerning)
exceptions to Proposed Final Order for EMS)
Rule Violation on Ambulance Run #691/208769A)
(Continued from August 2))

Peter Kasting, Deputy Attorney, City of Portland, advised the Board of rules and procedures for today's hearing; and explained the definition and procedures for ex-parte disclosures.

(Commissioner Kafoury arrived during Mr. Kasting's explanation)

Commissioners Casterline, McCoy, and Kafoury explained they were briefed by the Director of Human Services on facts and policy implications of the case. Some of the information received was deemed inadmissible for the Hearings Officer hearing. They were advised by Duane Zussy, Human Services Director, that County Counsel had authorized the discussion.

Mr. Kasting advised that ex-parte contacts are not fatal, but only that they need to be disclosed.

Mr. Kasting asked the Commissioners if the nature of the contacts make it impossible for anyone of them to render an impartial decision based solely on the evidence in the record.

The Commissioners were polled, and they all stated they could be impartial.

Mr. Kasting then asked the attorney for AA Ambulance whether he wanted to ask further questions about the ex-parte communications.

Christopher Thomas, representing AA Ambulance, stated he did not know what anyone had discussed with Mr. Zussy or Mr. Acker, but that Commissioner Casterline had said they discussed information not heard by the Hearings Officer.

Commissioners assured him the information was not different than the radio tape information all parties were privy to.

Mr. Thomas was confused about what to do, and said he felt it was inappropriate action because he had no way of determining whether the information would have an impact on the outcome of this hearing. He felt there was probably some influence and impact on the Commissioners. However, though he feels it was inappropriate, he agreed to proceed with the hearing.

Commissioner Kafoury stated that information she received was not substantive, and involved the policy question of whether or not this hearing would be "moot" because the new Ambulance Plan had been approved.

Mr. Kasting advised that Mr. Thomas could inquire into the substance of the communications, and have the opportunity to offer rebuttal testimony if there is new evidence presented on an item at issue; could request one or more Commissioners to disqualify themselves; or waive the objection and proceed.

Mr. Thomas stated he would not waive his objection; but would accept the information provided by the Commissioners even though he still feels the actions were not proper and puts his client at a disadvantage.

Commissioner Kafoury stated she was the one who initiated the meeting with the EMS Director.

Mr. Kasting asked Mr. Thomas whether he wanted to inquire more about the information.

Mr. Thomas said he was satisfied with the explanations.

Commissioner McCoy stated the issue was whether or not AA Ambulance violated the EMS Rules.

Mr. Thomas corrected the Commissioner, and said he feels the issue is whether or not the ex-parte communications have any influence on the outcome of this case.

Commissioner McCoy reported she feels the Commissioners agree the contacts did not have any influence on the case, and that the issue is whether or not there was a violation.

Mr. Thomas accepted the statement.

Commissioner Miller requested County Counsel notify the Board about rules regarding hearings when they are other than routine situations.

Sandra Duffy, County Counsel representing EMS, explained the situation in which it is charged that AA Ambulance #61 violated EMS Rules when it notified AA Ambulance dispatch there was an emergency and they needed backup rather than calling EMS dispatch; and #51 responded without taking themselves out of service. Following a hearing on the alledged violation, the Hearings Officer, B. B. Bouneff, declared there had been a violation, and imposed a fine.

Commissioner Miller stated information regarding notification of EMS dispatch was noted in the Hearings Officer's findings.

Ms. Duffy explained the phone call to EMS was made after #51 was responding, but that response authorization was not requested from EMS by AA Ambulance #51 before responding.

Mr. Thomas explained the stipulations handed to the Board this morning were agreed to by both he and Ms. Duffy. He said there were some other statements included at the bottom of the stipulations that explain why #61 requested AA Ambulance backup rather than EMS backup. He submitted Exhibit #1 which is a transcript he prepared for the Hearings Officer taken from all three transcripts Commissioners have seen. This transcript was prepared to make it easier to follow, and contains no new information. He added the original ambulance telephone transmission tapes were of poor quality, and hard to understand because of the garbled language caused by background calls being heard over the transmissions. He stated that unless there is an exception which says AA could respond to this call with ambulance #51, there was a violation of the Rule. He feels the question is whether or not there is an exception to the Rule. There are two possible exceptions, he feels, that authorize the action. He submitted Exhibit #2 (AA #51 Not Out of Service); and explained that if #51 was acting as an ALS ambulance throughout the procedure, AA Ambulance maintains that EMS Rule 6.31.320(F)

authorized the actions taken by ambulances #61 and #51. He read the Rule, and listed the reasons why it applied to the situation. He added he feels that #61's request to #51 to relay information to the EMS dispatcher is not prevented by the Rule as long as they receive the information. He also noted the EMS dispatcher can cancel a response, but in this case, did not. He explained that AA #61 staff were in the back of the vehicle which had only telephone access to AA Ambulance dispatch, and that they used that phone in order to stay with the patient. In order to call EMS dispatch, the staff would have to go to the front of the vehicle to get to the proper telephone, but they did not. He submitted Exhibit #3 (AA #51 Out of Service), and stated AA #51 could have called to say they were "out of service", but since EMS Rule 631-320(E)(5) allows a BLS ambulance to respond to Code 3, #51 did not call EMS. He said the issue is whether or not #51 had used the words "10-7" or "out-of-service"; it did not because the staff thought they were operating as an ALS ambulance, under self-dispatch rules in their own service area. He added he feels the Board does not want to put EMTs under the stress of interpreting EMS Rules in an emergency, and that staff should be allowed to operate as they did in this case.

Commissioner Anderson asked if the nature of the emergency should not be included in the (E)(5) rule?

Mr. Thomas explained that under this rule, there is no requirement to identify the nature of the emergency.

Commissioner McCoy asked if this is the first time for a violation of this type for AA Ambulance.

Mr. Thomas discussed prior violations, both of which occurred several years ago.

Mr. Kasting stated this testimony is not relevant to the contested issues before the Board.

Commissioner Casterline asked why the destination for #61 was changed.

Mr. Thomas explained that initially the call was determined to be a routine transport, but when the emergency occurred, the destination was changed to a closer hospital. In response to Commissioner Anderson's question, he explained the situation regarding communications between #51 and EMS, and discussed the confusion which resulted in EMS calling AA dispatch. He added he feels the Rules are confusing, and that is probably due to the fact that they have been developed over the years by different people.

Ms. Duffy stated that Rule 631.320(F), AA Exhibit #2, means what it says, "the dispatch for AA is the one that is responsible for getting the information about the dispatch of AA #51", and cannot be delegated to #51. The prior AA violation was a self-dispatch violation according to Mr. Acker. She referred to the transcript from AA Exhibit #1 to prove that #51 understood what 10-7 meant, but had not taken #51 out of service. Since an ALS ambulance cannot become a BLS ambulance until it is taken out of service, the rule does not apply. She responded to Commissioner Miller's questions, and added the Rule states that if personnel or equipment changes to reduce ALS qualifications, a call must be made to EMS dispatch and inform them of the change in status. She stated intent has nothing to do with the violation, either there was or was not a violation of the Rules. The County maintains none of the exceptions apply to this case, but that Mr. Thomas does not agree. She agreed that EMS dispatch could have cancelled #51 response, and said she could not explain why EMS did not ask AA dispatch or #51 the nature of the emergency.

Commissioner Miller stated she feels that if the staff had a valid reason for delegating the responsibility for calling EMS; and the Rule is silent, it is difficult to determine a violation has been committed.

Ms. Duffy stated EMS position is that the Rule needs to be followed regardless of the reason for not doing so; and added she feels the Rule is not silent.

Mr. Thomas, in response to Commissioner Miller's question, replied that since the reason for delegating the responsibility for notifying EMS was not in the record, he would not be comfortable discussing that issue; however he feels there is an exception to the Rule, and that is what this hearing is all about.

Commissioner Casterline said she feels there were violations on both sides.

Mr. Kasting advised the issue is whether or not the Rule was violated, and if it was violated, what sanction, if any, is appropriate. He noted, again, that Board options are: to accept the proposed Final Order; to modify or reject it; and to designate a person to prepare a Final Order should it be either modified or rejected.

Commissioner Miller moved to reject the Final Order, duly seconded by Commissioner Casterline.

Commissioner Miller said she feels that since the Rule does not speak to delegation, she feels the Rule is not clear enough to determine a violation. The ambulance staff made a judgment based upon the patient rather than the Rule itself. She believes the staff felt they were in compliance with the "out-of-service" Rule, and that the intent was not to violate the Rule, therefore she was moving to reject the Final Order.

Following Board discussion, Commissioner Casterline recommended the Order be changed to note technical violations were made by both AA Ambulance and EMS, and withdraw the fine imposed on AA Ambulance.

Mr. Kasting stated Commissioner Casterline wishes to modify the Order so that the Board would agree that technical violations occurred, and eliminate the fine. Upon Commissioner Casterline's concurrence, he said he feels the motion is different than Commissioner Miller's.

Commissioner Miller stated her intent was not to modify, but to reject the Final Order.

Mr. Kasting clarified Commissioner Miller's motion was to reject the Final Order, and to direct a new Order be prepared with the Finding that there were no violations.

Commissioner Miller concurred.

Following discussion, the motion was considered and died. Commissioners McCoy, Casterline, and Kafoury voting NO.

Commissioner Casterline moved to modify the Order by eliminating the fine, and to declare violations were made by both sides. There was no second to the motion, therefore it died.

Following discussion, Commissioner Anderson moved to uphold the Hearings Officer's Final Order, and after moving the gavel to the Vice Chair, duly seconded by Commissioner McCoy.

Commissioner Miller moved to amend the motion by modifying the Order by noting that since technical violations were made by both AA Ambulance and EMS, the fine will be eliminated, duly seconded by Commissioner Kafoury.

Mr. Kasting explained, in response to Commissioner Anderson's question, there would be no monetary sanction for AA Ambulance, but there would be a record of the Appeal with the notation in

the Final Order that there was a violation. He asked Ms. Duffy and the EMS Director whether or not future violations are affected if there have been recent prior violations.

Ms. Duffy and Mr. Acker, EMS Director, agreed they are not.

The motion was considered, and motion was defeated with Commissioners Miller, Anderson, and McCoy voting NO.

Upon motion of Commissioner Miller, duly seconded by Commissioner Anderson, it is

ORDERED that the Final Order be amended to eliminate the fine imposed upon AA Ambulance. Commissioner McCoy voted NO.

At this time, the main motion was considered, and it is

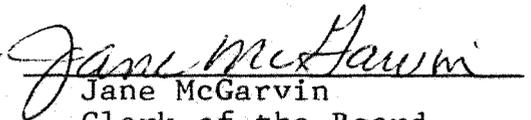
ORDERED that the above-entitled Final Order, as amended, be approved. Commissioners Miller and Kafoury voted NO.

At this time, Commissioner McCoy requested County Counsel prepare the Final Order, as amended, for signature.

Very truly yours,

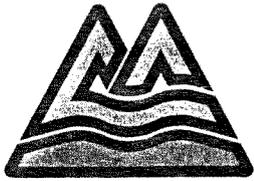
BOARD OF COUNTY COMMISSIONERS

By


Jane McGarvin
Clerk of the Board

jm

cc: County Counsel
Health
Emergency Medical Services



MULTNOMAH COUNTY OREGON

DEPARTMENT OF GENERAL SERVICES
COUNTY COUNSEL SECTION
1120 S.W. FIFTH AVENUE, SUITE 1400
P.O. BOX 849
PORTLAND, OREGON 97207-0849
(503) 248-3138

BOARD OF COUNTY COMMISSIONERS
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COUNTY COUNSEL
LAURENCE KRESSEL

CHIEF ASSISTANT
ARMINDA J. BROWN

ASSISTANTS

JOHN L. DU BAY
SANDRA N. DUFFY
J. MICHAEL DOYLE
H. H. LAZENBY, JR.
PAUL G. MACKEY
MARK B. WILLIAMS

TO: Jane McGarvin
Clerk of the Board

FROM: Sandra Duffy *Sandy*
Assistant County Counsel

DATE: July 27, 1988

RE: Appeal Hearing on August 2, 1988 on AA
Ambulance Violation Final Order

Enclosed are the following documents for the Board of County Commissioners in preparation for the above referenced hearing:

1. Proposed final order.
2. AA Ambulance's (AA) exceptions to the proposed final order.
3. Multnomah County Emergency Medical Services (EMS) objections to AA's exceptions.
4. EMS hearing memorandum.
5. AA letter hearing brief.

2040R/sh

Enclosures

cc: Chris Thomas

BOARD OF
COUNTY COMMISSIONERS
1988 JUL 29 PM 4:47
MULTNOMAH COUNTY
OREGON

1 In the Matter of)
AA Ambulance)
2 Run #691/208769A)

PROPOSED FINAL ORDER

3
4 This matter came on for hearing on December 21, 1987
5 before Hearings Officer B. B. Bouneff. AA Ambulance was
6 represented by its attorney, Christopher P. Thomas, and Multnomah
7 County Emergency Medical Services was represented by its
8 attorney, Sandra Duffy, Assistant County Counsel. After hearing
9 testimony of witnesses; reviewing documentary evidence including
10 tape recordings; reviewing legal memoranda of counsel; hearing
11 argument of counsel; and, considering the relevant portions of
12 the Multnomah County Code and the EMS Rules, the Hearings Officer
13 found, pursuant to MCC 6.31.180(G) and in accordance with
14 Attorney General's Model Rules of Procedure Rule 137-03-070, as
15 follows:

16 1. EVIDENCE.

17 Exhibits 1, 2, 7, 8, 9, 10, 11, 12, 14, 16, 17,
18 18, 19, 20, 21 and 22 are admitted into evidence. Exhibits 3, 4,
19 5, 6, 13 and 15 are not admitted into evidence.

20 2. FINDINGS OF FACT.

21 On April 13, 1987 AA Ambulance Unit Number 61
22 (AA61), an advanced life support (ALS) ambulance, left the scene
23 of an emergency response at 3:23 p.m. At 3:24 AA61 was en route
24 to Providence Hospital with the patient when she began to have a
25 seizure. Emergency Medical Technician (EMT) Filler had the

26 /// /// ///

1 driver, EMT Hernandez, stop and help position the patient for
2 life saving procedures.

3 AA61 called the AA Ambulance dispatcher and asked
4 for a backup car (an ALS ambulance with two Emergency Medical
5 Technicians, Class IV on board). AA61 testified they called the
6 AA dispatcher rather than Emergency Medical Services (EMS)
7 Central Dispatcher because the radio transmitting to AA was more
8 accessible. Evidence indicated the AA radio was in the rear
9 compartment whereas the EMS radio was in the front of the
10 vehicle. AA Dispatch sent AA51 to meet AA61. At 3:30 p.m. AA51,
11 also an ALS ambulance, informed EMS Dispatch Office that they
12 were en route to N.E. 7th and Alberta to assist AA61. AA51
13 explained it was backing up AA61. Evidence indicates that EMS
14 Dispatch was unsure as to what was occurring and at 3:32 p.m.,
15 EMS Dispatch Office telephoned AA Dispatch to find out what AA51
16 was doing. AA51 arrived at AA61's location and dropped off an
17 EMT from AA51 who drove AA61 Code 3 to Emanuel Hospital at 3:38
18 p.m.

19 At 3:39 p.m. AA51 informed EMS Dispatch Office
20 that it was out-of-service because his partner was with AA61.
21 Evidence was introduced to indicate that the 7th and Alberta
22 location was within AA Ambulance's service area. Undisputed
23 evidence indicated that when AA dispatched AA51, there were more
24 than eight ALS ambulances available for call in Multnomah County.
25 Further evidence indicated that at the time AA had more than 50%

26 /// /// ///

1 of its ALS ambulances available within its service area, and AA's
2 ambulances served both as ALS and as Basic Life Support (BLS)
3 ambulances.

4 I believe the crux of the matter is whether or not
5 the EMS Rules require specifically the crew of the ambulance to
6 request the EMS dispatch office for an additional vehicle or
7 whether such request could be from AA Ambulance's dispatcher or
8 other agent. It is also crucial as to whether or not such
9 dispatch of additional vehicle could be on the order of other
10 agencies other than the EMS dispatcher.

11 There was conflicting evidence regarding the radio
12 call from the crew of AA61 for backup. AA Ambulance stated that
13 the crew of AA61 called for a driver. The County alleged that
14 the request was for a "a car Code 3" (an ALS ambulance with two
15 Emergency Medical Technicians, Class IV, on board). While the
16 three tape recordings are of terrible quality, all three agree on
17 the salient points. I find that all three tapes indicate that
18 the request was for a car Code 3, and not for a driver.

19 However, I also find that the AA dispatcher and
20 the crew of AA51 (the backup ALS ambulance which responded to
21 AA61's request) did advise the EMS Central Dispatch office of the
22 request on the part of AA61 and the status of the two vehicles.

23 3. CONCLUSIONS OF LAW.

24 a. AA Ambulance did not assert that it had the
25 authorization of the Emergency Medical Services Dispatch Office
26 prior to dispatching AA51 to backup AA61. It did assert,

1 however, that other provisions of the County Code and/or the EMS
2 Rules allowed such a dispatch. I find that AA Ambulance violated
3 EMS Rule 6.31.390(C)¹ by responding by ambulance to an emergency
4 call without the authorization of Emergency Medical Services
5 Dispatch Office or under any other provision of MCC 6.31.

6 b. I find that AA Ambulance violated Multnomah
7 County Code 6.31.190(G)² by responding by ambulance to an
8 emergency call without the authorization of Emergency Services
9 Dispatch Office or under the authority of any other provisions of
10 this ordinance or EMS Rule.

11 /// /// ///
12 /// /// ///
13 /// /// ///

14 ¹ EMS Rule 631-390(C) provides: "Prohibited activities.
15 No applicant or licensee, applicant's or licensee's
16 employee or any other person doing business as defined
in MCC 6.31 shall:

17 * * *

18 (C) Respond by ambulance to an emergency call unless
19 so authorized by the Emergency Medical Services
Central Dispatch Office or under MCC 6.31."

20 ² MCC 6.31.190(G) provides: "Prohibited activities. No
21 applicant or licensee, applicant's or licensee's
22 employee or any other person doing business as defined
hereunder shall:

23 * * *

24 (G) Respond by ambulance to an emergency call unless
25 so authorized by the Emergency Medical Services
26 Central Dispatch Office or under a provision of
this ordinance or rule adopted hereunder."

1 c. I find that AA Ambulance did not violate MCC
2 6.31.190(F)³ because the AA dispatcher and crew of AA51 advised
3 the EMS Central Dispatch Office of the request on the part of
4 AA61 and the status of the two vehicles.

5 d. I find that EMS Rule 631-320(F) does not
6 apply in this situation.⁴

7 ³ MCC 6.31.190(F) provides: "Prohibited activities. No
8 applicant or licensee, applicant's or licensee's
9 employee or any other person doing business as defined
hereunder shall:

10 * * *

11 (F) Fail or refuse to promptly advise the Emergency
12 Medical Services Central Dispatch Office of
13 receipt of a request for emergency medical
14 assistance or when a licensee's ambulance becomes
available or non-available to respond to dispatch
order.

15 ⁴ EMS Rule 631-230(F) and (G) provide:

16 "(F) A licensee shall be deemed to have a standing
17 authorization to respond by ambulance to an emergency
18 call received by the licensee, and may, accordingly,
immediately respond to the call, provided that:

19 "(1) The licensee's dispatcher relays the
20 information required in paragraph (B) of this rule
21 [location and nature of emergency and telephone
22 number of caller], including the unit number of
the ambulance, and the location from which it is
responding, to EMS Central Dispatch immediately
after dispatching the ambulance.

23 "(2) The call is in the licensee's ambulance
service area; and,

24 "(3) The licensee has more than 50% of its
25 ambulances available within its ambulance service
area.

26 "(4) A licensee shall utilize the triage guide

1 e. I find that during the pertinent times
2 herein, AA did not take AA51 out of service.⁵

3 adopted under these rules in determining whether a
4 call requires an emergency response.

5 "(5) EMS Central Dispatch may cancel any
6 ambulance dispatched by a licensee under this
standing authorization rule."

7 "(G) The provisions of paragraph (F) of this rule shall
8 not apply where an ambulance crew determines that
9 there is a need for one or more additional
10 vehicles at the scene of an emergency. Where such
11 a determination is made, the ambulance crew shall
promptly contact EMS Central Dispatch to request
the additional vehicles. The crew shall advise
EMS Central Dispatch of the number and types of
units needed."

12 5 EMS Rule 631-316, 631-314, and 631-320(E) (5) provide:

13 "631-316 A licensee's ambulance may be taken out of
14 service to the EMS Central Dispatch system if there are
15 more than eight licensed ALS-staffed ambulances
available for calls in Multnomah County. . ."

16 "631-314 The Crew of each vehicle shall promptly
17 inform EMS Central Dispatch of the following changes in
status by radio:

18 ". . .

19 "(I) Out of service (no longer available to respond to
dispatch orders from EMS Central Dispatch.)"

20 "631-320(E) (5) Licensee's BLS ambulance may respond
21 Code-3 to the scene of an emergency under the following
conditions:

22 "(a) An ALS ambulance requests addition manpower
23 at the scene of an emergency and the ALS ambulance
transports the emergency patients; or

24 "(b) . . .

25 "(c) Licensee advises EMS Dispatch by radio or
26 telephone of the number of the unit responding,

1 4. ORDER.

2 Based upon my finding that AA Ambulance did
3 violate a County Code provision and an EMS Rule, I find that the
4 fine of \$250.00 on the part of the Director of Emergency Medical
5 Services (See Exhibit 7) is appropriate and order that it be paid
6 by licensee.

7 5. APPEAL RIGHTS.

8 a. Final Order. Pursuant to MCC 6.31.180(J),
9 the Board of County Commissioners (BCC) may accept the proposed
10 final order, modify it or reject it and prepare, or cause a
11 person designated by it to prepare a final order.

12 b. Reconsideration. MCC 6.31.184 provides that
13 the BCC may reconsider a final order upon the filing of a
14 petition for reconsideration within 15 days after issuance of the
15 order. If no action is taken by the BCC within 15 days after the
16 petition is filed, the petition shall be deemed denied. If the
17 petition is allowed by vote of the BCC, a hearing on the
18 reconsideration shall be held and an amended order shall be
19 issued.

20 c. Judicial Review. Review of the action of the
21 BCC shall be taken solely and exclusively by writ of review in
22 the manner set forth in ORS 34.010 to 34.100.

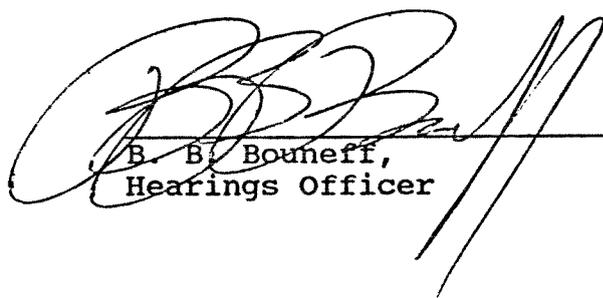
23 /// /// ///

24 _____

25 the location from which the unit is responding and
26 the location of the emergency."

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THIS PROPOSED FINAL ORDER IS ADOPTED this 15th day
of June, 1988.



B. B. Bouneff,
Hearings Officer

RECEIVED

JUL 25 1988

CERTIFIED A TRUE COPY

1 COUNTY COUNSEL FOR BEFORE THE MULTNOMAH COUNTY COMMISSION
2 MULTNOMAH COUNTY, ORE.

3 In the Matter of AA Ambulance)
4)
5) EXCEPTIONS OF AA AMBULANCE
6 Run #691/208769A) TO PROPOSED FINAL ORDER

7
8 AA Ambulance submits the following exceptions to the
9 Proposed Final Order in this matter:

10 1. Findings of Fact. The Findings of Fact, on page 3,
11 lines 11 through 18, describe one factual issue in this
12 proceeding as whether the crew of AA Ambulance's vehicle number
13 61 called for another ALS ambulance or for a driver. The
14 Proposed Final Order states that AA61 called for "a car Code 3"
15 (Code 3 means as fast as possible with siren sounding). AA
16 Ambulance agrees that this was the language used. AA Ambulance
17 contends, however, that what the crew of AA61 intended by this
18 was to get a driver who would drive AA61 to the hospital while
19 the crew tended the patient. The record clearly establishes that
20 this is what was intended, it is what actually occurred, and it
21 has not been disputed that this is what was intended. Thus at
22 the end of line 18 on page 3, it would be appropriate to add,
23 "The intention of the AA61 crew was to get a driver to AA61 as
24 quickly as possible."

25 2. Conclusions of Law. The Hearings Officer found that AA
26 Ambulance violated EMS Rule 6.31.390(C). That rule prohibits an
ambulance provider from responding by ambulance to an emergency
call unless so authorized by EMS Central Dispatch or by Multnomah
County Code Chapter 6.31.

Christopher P. Thomas
Suite 400, 2000 S.W. First Avenue
Portland, Oregon 97201
(503) 227-1116

1 The Hearings Officer also found that AA Ambulance violated
2 MCC 6.31.190(G). That code section prohibits an ambulance
3 provider from responding by ambulance to an emergency call unless
4 so authorized by EMS Central Dispatch or by MCC Chapter 6.31 or a
5 rule adopted thereunder.

6 The EMS rule and code section supposedly violated by AA
7 Ambulance are essentially the same. The issue in this proceeding
8 is whether AA Ambulance vehicle 61 had the authority to call AA's
9 dispatcher for "a car Code 3" in order to get a driver to the
10 scene as soon as possible. If any EMS rule authorizes this, then
11 AA Ambulance did not commit a violation. If no EMS rule
12 authorizes this, then AA61 should have called EMS Central
13 Dispatch rather than AA's dispatcher and, by failing to do so,
14 committed a violation.

15 AA Ambulance maintains that AA61 had authority under an EMS
16 rule to call AA's dispatcher for "a car Code 3" in order to get a
17 driver to the scene as soon as possible. The Proposed Final
18 Order concludes to the contrary. AA Ambulance therefore takes
19 exception to the conclusions of the Proposed Final Order.

20 EMS Rule 631-320(F). First, AA Ambulance maintains that it
21 had authority to act as it did under EMS Rule 631-320(F). That
22 rule authorizes an ambulance provider to respond immediately to
23 an emergency call from a licensee if:

- 24 (1) The provider's dispatcher relays certain information to
25 EMS Central Dispatch immediately after dispatching the
26 ambulance. Here, the Hearings Officer found that AA51

1 notified EMS Central Dispatch that it was en route to
2 NE 7th and Alberta to back up AA61 and subsequently
3 notified EMS that it was out of service because one
4 paramedic was in AA61. The applicable provisions of
5 this requirement were met.

6 (2) The call is in the provider's service area. Here, the
7 Hearings Officer found that the evidence was that the
8 call was in AA's service area. This requirement was
9 met.

10 (3) The licensee has more than 50% of its ambulances
11 available within its ambulance service area. Here, the
12 Hearings Officer found that the evidence was that AA
13 Ambulance had more than 50% of its ambulances available
14 within its service area. This requirement was met.

15 (4) The licensee uses the triage guide to determine whether
16 the call needs an emergency response. Here, the triage
17 guide was not applicable, since the need was for a
18 driver for a patient who already was the subject of a
19 valid call. This requirement was not applicable.

20 In other words, Rule 631-320(F) appears to authorize AA
21 Ambulance's action in this case. There is an exception, however,
22 in Rule 631-320(G), which says that the preceding rule does not
23 apply where an ambulance crew determines that there is a need for
24 one or more additional vehicles at the scene of an emergency.
25 The purpose of this exception is to give EMS Central Dispatch
26 control over the dispatching of ambulances to a multiple casualty

1 emergency. Here, there was not a multiple casualty emergency.
2 Rather, there was a need for another driver. The exception
3 therefore does not apply. Thus, with the exception being
4 inapplicable, AA Ambulance's action in this case was authorized
5 by EMS Rule 631-320(F).

6 Notwithstanding this, for some unexplained reason, the
7 Hearings Officer concluded that Rule 631-320(F) "does not apply
8 in this situation." AA Ambulance can imagine only two possible
9 thoughts the Hearings Officer might have had. He might have
10 concluded the rule does not apply because the call was not an
11 emergency call. If that is the case, however, there was no
12 violation because the two supposed violations only can occur if
13 there is an unauthorized response to "an emergency call." The
14 other possibility is that the Hearings Officer believed that the
15 "multiple casualty" exception applied to this case. If so, his
16 legal conclusion was incorrect.

17 EMS Rule 631-316. This rule authorizes a licensee to take
18 an ambulance out of service to EMS Central Dispatch if there are
19 more than eight ALS-staffed ambulances available to the system.
20 Here, the Hearings Officer found that the evidence was that there
21 were more than eight ALS ambulances available to the system. EMS
22 Rule 631-314 requires the crew of a vehicle to inform EMS Central
23 Dispatch promptly by radio if it goes out of service so that it
24 no longer is able to respond to EMS dispatch orders. Here, the
25 Hearings Officer found that the crew of AA51 did notify EMS
26

1 Central Dispatch that it was proceeding to back up AA61. Thus AA
2 Ambulance appears to have authority for what it did.

3 Once an ALS ambulance is taken out of service, it can be
4 treated as a BLS ambulance. The Hearings Officer found that the
5 evidence was that AA's ambulances serve as both ALS and BLS
6 ambulances. EMS Rule 631-320(E)(5) authorizes a provider to
7 dispatch a BLS ambulance Code 3 to the scene of an emergency at
8 the request of an ALS ambulance for additional manpower if the
9 ALS ambulance transports emergency patients and if the provider
10 advises EMS Central Dispatch of certain information. Here, AA61
11 requested a car Code 3 in order to get a driver, AA61 transported
12 the patient, and AA Ambulance gave the appropriate information to
13 EMS Central Dispatch.

14 Here too, however, for some unexplained reason, the Hearings
15 Officer found that AA Ambulance did not take AA51 out of service.
16 This is strange because AA51 clearly was not available to EMS
17 Central Dispatch and everyone knew it. Here too, the Hearings
18 officer's conclusion was incorrect.

19 3. Penalty. The EMS Office imposed the maximum fine on AA
20 Ambulance (\$250), and the Hearings Officer upheld it. Even if
21 there was a violation, which AA Ambulance vigorously disputes,
22 the violation at most was the use of the wrong words and should
23 not have been pursued much less subjected to the maximum fine.

24 ///

25 ///

26

1 For the reasons stated, the Hearings Officer's Proposed
2 Final Order should be rejected and an order entered exonerating
3 AA Ambulance.

4 Respectfully submitted,

5 Isl Christopher Thomas
6 Christopher P. Thomas

BEFORE THE BOARD OF COUNTY COMMISSIONERS

In the Matter of AA Ambulance) OBJECTIONS TO AA AMBULANCE'S
) EXCEPTIONS TO PROPOSED
Run #691/208769A) FINAL ORDER

EMS objects to AA Ambulance's (AA) Exceptions to the Proposed Final Order of hearings officer B. B. Bouneff as follows:

1. Findings of Fact. AA requests the addition of the following language to the proposed order: "The intention of the AA 61 crew was to get a driver to AA 61 as quickly as possible." However, AA agrees that AA 61 called for "a car code 3". The hearings officer's findings are based on what actually occurred, not on what was intended. The proposed language should not be added.

2. Conclusions of Law. The Proposed Final Order concludes that AA Ambulance Number 61 (AA/61) did not have authority under any EMS Rule to call AA's dispatcher for a "car code 3" in order to have an Emergency Medical Technician (EMT) meet AA 51 and drive it to the hospital. EMS Rule 6.31.390(C) and MCC 6.31.190(G) prohibit an ambulance driver from responding by ambulance to an emergency call unless authorized by EMS central dispatch (911).

a) Rule 631-320(F). AA asserts that EMS Rule 631-320(F) gives it the authority to act as it did. It purports to be mystified as to why the hearings officer concluded that the Rule did not apply. On page 2 of its

Exceptions, AA paraphrases the requirements of EMS Rule 631-320(F) as follows:

[EMS Rule 631-320(F)] authorizes an ambulance provider to respond immediately to an emergency call for a licensee if:

- (1) The provider's dispatcher relays certain information to EMS Central Dispatch immediately after dispatching the ambulance. Here the hearings officer found that AA 51 notified EMS Central Dispatch that it was enroute to NE 7th and Alberta to back up AA 61 and subsequently notified EMS that it was out of service because one paramedic was in AA 61. The applicable provisions of this requirement were met. (Emphasis added.)

It is the above-quoted "certain information" that is critical to the analysis of the applicability of the Rule. What EMS Rule 631-320(F)(1) actually requires is:

631-320 Ambulance Dispatch. The following apply to licensees which operate emergency ambulances.

(F) Standing Authorization to Respond. A licensee shall be deemed to have a standing authorization to respond by ambulance to any emergency call received by the licensee, and may, accordingly, immediately respond to the call, provided that:

- (1) The licensee's dispatcher relays the information required in paragraph (B) of this rule, including the unit number of the ambulance, and the location from which it is responding, to EMS Central Dispatch immediately after dispatching the ambulance.

And the information required in paragraph (B) of the rule is:

(B) Receipt of Emergency Calls. Except as otherwise provided in paragraph (F), upon

receipt of a request for emergency medical assistance a licensee shall immediately relay the following information to EMS Central Dispatch.

- (1) the location of the emergency
- (2) the nature of the emergency
- (3) the telephone number of the caller.

The above information shall be relayed by telephone connected directly and exclusively to EMS Central Dispatch.

The required information (location and nature of the emergency, the telephone number of the caller, the unit number of the ambulance and the location from which it is responding) was not relayed to EMS Central Dispatch; it had to be obtained by EMS Central Dispatch by calling AA 51. (See Multnomah County's Appeal Hearing Memorandum.)

AA Ambulance "can imagine only two possible thoughts the Hearings Officer might have had" to determine that Rule 631-320(f) does not apply. First, that he concluded that it was not an emergency call, or second, that the "multiple casualty exception" applied to this case. There are no facts, or legal conclusions by the hearings officer which support these theories.

It is quite clear that EMS Rule 631-320(f) did not apply because the information required under that rule, which would authorize AA's actions, was not relayed by the proper party to the property party.

b) EMS Rule 631-316; 631-314 and 631-320(E)(5). AA alleges that it took ambulance AA 51 "out of

service" and therefore it could respond as a Basic Life Support (BLS) ambulance Code 3 to an emergency as backup for additional manpower to AA 61. Joe Acker, EMS Director, testified at the hearing that an Advance Life Support (ALS) ambulance is "out of service" if more than eight ALS ambulances are available, and a request is made to "go out of service". The Hearings Officer found that AA 51 was not "out of service" because it had never taken itself out of service with EMS Dispatch. AA 51 responded to the "car Code 3" call as an ALS ambulance; it did not know its purpose was to deliver a driver for AA 61. Because AA 51 was not "out of service", EMS Rules 631-316, 631-314 and 631-320(E)(5) do not apply and do not authorize the actions taken by AA 51.

3. Penalty. AA objects to the maximum fine of \$250 imposed by the hearings officer. The purpose of the fine is to deter similar violations in the future. AA asserts that AA 61 used the ambulance phone to call AA Dispatch because it was closer and that it intended to call for a driver only. The failure to contact EMS Dispatch left EMS Dispatch confused as to what AA 51 was doing and made an ALS ambulance unavailable for another emergency call. The minutes which are lost because of confusion can cost the life of a patient who does not get medical care as quickly as they should. In light of the high stakes, a \$250 fine is a small deterrent.

4. Conclusion

Multnomah County Emergency medical Services respectfully request that the Board adopt the Proposed Final Order of the Hearings Officer as submitted.

DATED this _____ day of _____, 1988.

Respectfully submitted,

LAURENCE KRESSEL, COUNTY COUNSEL
FOR MULTNOMAH COUNTY, OREGON

By _____
Sandra Duffy
Assistant County Counsel

2034R/dm

CHRISTOPHER P. THOMAS

ATTORNEY AT LAW
2000 S.W. 1ST AVENUE
SUITE 400
PORTLAND, OREGON 97201
TELEPHONE (503) 227-1116

December 18, 1987

Mr. B.B. Bouneff
Bouneff, Chally & Marshall
The Logus Building
529 SE Grand Avenue
Portland, OR 97214-2276

Subject: EMS - AA Ambulance Appeal Request

Dear Mr. Bouneff:

This letter will constitute AA Ambulance's hearing brief in this matter.

I. FACTS

AA Ambulance believes that the following facts are undisputed:

On April 13, 1987, AA Ambulance vehicle 61 was transporting a patient to Providence Hospital, having been dispatched by Emergency Medical Services Central Dispatch. There were two paramedics in the ambulance, one attending the patient and one driving. During transport, the patient began having seizures. The driver stopped the ambulance to assist the attending paramedic. Within a very short time, the patient went into cardiac arrest, and the driver, being unable to leave the patient, radioed to AA Ambulance to send a driver. The driver radioed AA Ambulance rather than EMS Central Dispatch because the AA radio was more accessible, being in the rear compartment of the ambulance, whereas the EMS radio was less accessible, in the front compartment. AA Ambulance sent its vehicle 51 "Code 3", in other words with lights and siren operating, to meet AA 61. AA 51 had been at Emanuel Hospital. When AA dispatched AA 51 to meet AA 61, there were more than eight Advanced Life Support staffed ambulances available for calls in Multnomah County. In addition, at the time of the dispatch AA had more than 50% of its ambulances available within its service area.

AA 51 had two paramedics. AA 51 met AA 61 at NE 7th and Alberta, which is in AA Ambulance's service area. While en route to 7th and Alberta, AA 51 radioed in to EMS Central Dispatch that it was on call. AA 51 also was in communication with the AA dispatcher. In addition, the AA dispatcher and EMS Central Dispatch were in communication. The text of the conversations, reconstructed from EMS and AA tapes, is approximately as follows:

(1523) (Time of Day)

61 (To AA Dispatch): 61.

AA Dispatch (To 61): 61.

61 (To AA Dispatch): We're Code 1 to Providence
25.4. (Mileage)

AA Dispatch: At 1524.

61 (To EMS Dispatch): 61. We're Code 1 to Providence.

EMS Dispatch (To 61): 61. 1524. =

(1528)

61 (To AA Dispatch): We're stopping for a short while
at 7th and Alberta.

AA Dispatch (To 61): 1528.

AA Dispatch (To?): Time presently is 1529, 4/13/87...
Garbled...down the street...

(1530)

61 (To AA Dispatch): 61.

AA Dispatch (To 61). Go ahead.61.

61 (To AA Dispatch): 61 arrived...You got any cars in the
area? We need a Code 3 back-up at 7th
and Alberta.

AA Dispatch (To 61): Copy.

AA Dispatch (To 51): 51.

AA Dispatch (To 61): 61?

AA Dispatch (To 51): 51.

51 (To AA Dispatch): 51.

AA Dispatch (To 51): Stand by one [minute,] 51.

AA Dispatch (To 61): 61?

AA Dispatch (To 51): 51, would you advise EMS that 61 went through us to ask for a Code 3 backup at 7th & Alberta, and you're responding.

51 (To AA Dispatch): Did you want us to go on that?

AA Dispatch (To 51): Yes, sir.

51 (To AA Dispatch): Okay, we're en route... en route to the car.

51 (To AA Dispatch): Does anyone know if seizure prior to call or after?

61 (To AA Dispatch): Garbled.

51 (To AA Dispatch): Go ahead.

AA Dispatch (To ?): Better get them back in district.

EMS Dispatch (To 51): Last unit, say again?

51 (To EMS Dispatch): 51.

EMS Dispatch (To 51): 51, go ahead.

51 (To EMS Dispatch): We're clear of Emanuel, we'll be going to ..(Garbled)....We're on that call, 7th & Alberta.

EMS Dispatch (To 51): 51, I copied you're clear of Emanuel, but I didn't get the rest.

51 (To EMS Dispatch): 51's en route, 7th & Alberta.

AA Dispatch (To 51): Say again 51.

Some garbled talk here.

51 (To AA Dispatch): We'll be clear of Emanuel, but I didn't get the rest.

51 (To EMS Dispatch): We're on that call to 7th & Alberta.

51 (To AA Dispatch): We're en route to 7th & Alberta.

AA Dispatch (To 51): Copy, at 1528, you're backing up 61,
unknown what they've got.

EMS Dispatch (To 51): At 1531, backing up 61 on 7th &
Alberta. Is that a Code 1?

51 (To EMS Dispatch): A Code-3 backup.

EMS Dispatch (To 51): 7th & Alberta, copy.

1532

(Phone rings at AA Dispatch)

AA Dispatch (To EMS Dispatch): AA Ambulance.

EMS Dispatch (To AA Dispatch): Hello, this is EMS.

AA Dispatch (To EMS Dispatch): Hi, EMS.

EMS Dispatch (To AA Dispatch): I'm confused by 51.

AA Dispatch (To EMS Dispatch): Well, 61 requested Code 3
backup at 7th & Alberta with
the patient they were
transporting.

EMS Dispatch (To AA Dispatch): With the patient they were
transporting?

AA Dispatch (To EMS Dispatch): Yes, so 51's on their way
from Emanuel to assist them.

EMS Dispatch (To AA Dispatch): And 61 sort of stopped at 7th
& Alberta.

AA Dispatch (To EMS Dispatch): Yes.

EMS Dispatch (To AA Dispatch): Okay, that makes more sense.

AA Dispatch (To EMS Dispatch): Yeah. Don't feel too bad. I
felt the same way you did.

EMS Dispatch (To AA Dispatch): There is....There is a
disturbance of some kind at
9th & Alberta.

AA Dispatch (To EMS Dispatch): Oh, goodie.

EMS Dispatch (To AA Dispatch): Oh, a large gathering of
kids, and it is all

anonymous, but somebody is supposed to have a knife and somebody's supposed to have a handgun.

AA Dispatch (To EMS Dispatch): Oh, jeez. Okay, thanks.

EMS Dispatch (TO AA Dispatch): Okay.

AA Dispatch (To EMS Dispatch): Thanks.

EMS Dispatch (Operator conversations): 1532. They stopped at 7th & Alberta and asked for a Code 3 backup ambulance. Well, that's the closest thing I could figure out. Well, maybe a seizure, but...I don't know why, it must have gone to shit after they started to transport.

1533

AA Dispatch (To 51): 51.

51 (To AA Dispatch): 51.

AA Dispatch (To 51): There is a disturbance call at 9th & Alberta, weapons involved. You might be aware of that little situation.

51 (To AA Dispatch): 10-4, we're about, well they're right in front of us.

AA Dispatch (To 51): 10-4. ..

1535

51 (To AA Dispatch): 51's there.

AA Dispatch (To 51): Copy.

61 (To EMS Dispatch): 61 calling.

EMS Dispatch (To 61): 61.

61 (To EMS Dispatch): Yeah, we'll be 10-62 to Emanuel Code 3 with a Code 99.

EMS Dispatch (To 61): 61, at 1538.

EMS Dispatch (Operator conversations): Code 3 to Emanuel now with a 99. So she died on them.

51 (To EMS Dispatch): Yeah, I'm going to be 10-7. I'm gonna follow my partner in, he's with 61, he's riding to Emanuel.

EMS Dispatch (Operator Conversations): At 1539. Now half of 51's riding in the ambulance, probably pumping on her. Well, he went Code 1 originally, maybe the Rescue just went home.

61 (To EMS Dispatch): 61, 10-64

EMS Dispatch (To 61): 61, 1540.

EMS Dispatch (Operator conversation): She was foaming at the mouth. They transport Code 1 to the hospital, all of a sudden 51 clears Emanuel, says "we're going." Weird.

During the course of these events, one paramedic from AA 51 drove AA 61 to Providence Hospital Code 3, while the other AA 51 paramedic followed in AA 51. The total time AA 51 was involved in the call was 15 minutes.

AA Ambulances maintains an Advanced Life Support (ALS) capacity on all its ambulances and thus uses the same ambulances and crews for both ALS and Basic Life Support (BLS) services. BLS services are a lower level of services than ALS services.

II. REGULATIONS

The relevant County Code and EMS Rule provisions are as follows.

1. General. County Code Sections 6.31.190(F) and (G) and EMS Rules 631-390(B) and (C) are essentially the same. The County Code provisions state:

"No...licensee...or licensee's employees...shall:

"(F) Fail or refuse to promptly advise Emergency Medical Services Central Dispatch Office of receipt of a request for emergency assistance or when a licensee's ambulance becomes available or non-available to respond to dispatch orders;

"(G) Respond by ambulance to an emergency call unless so authorized by the Emergency Medical Services Central Dispatch Office or under a provision of this chapter or rule adopted thereunder."

EMS Rules 631-390(B) and (C) contain nearly identical language.

2. Authorized Response. Several EMS Rules authorize a direct response to calls, rather than routing the calls to EMS Central Dispatch.

EMS Rule 631-320(E) (5) states:

"Licensee's BLS ambulance may respond Code-3 to the scene of an emergency under the following conditions:

"(a) An ALS ambulance requests additional manpower at the scene of an emergency and the ALS ambulance transports the emergency patients; or

"(b)...

"(c) Licensee advises EMS Dispatch by radio or telephone of the number of the unit responding, the location from which the unit is responding and the location of the emergency."

EMS Rule 631-320(F) states:

" A licensee shall be deemed to have a standing authorization to respond by ambulance to an emergency call received by the licensee, and may, accordingly, immediately respond to the call, provided that:

"(1) The licensee's dispatcher relays the information required in paragraph (B) of this rule [location and nature of emergency and telephone number of caller], including the unit number of the ambulance, and the location from which it is responding, to EMS Central Dispatch immediately after dispatching the ambulance.

"(2) The call is in the licensee's ambulance service area; and,

"(3) The licensee has more than 50% of its ambulances available within its ambulance service area.

"(4) A licensee shall utilize the triage guide adopted under these rules in determining whether a call requires an emergency response.

"(5) EMS Central Dispatch may cancel any ambulance dispatched by a licensee under this standing authorization rule."

EMS Rule 631-320(G), imposing a limitation on a provider's authority under Rule 631-320(F), states:

"The provisions of paragraph (F) of this rule shall not apply where an ambulance crew determines that there is a need for one or more additional vehicles at the scene of an emergency. Where such a determination is made, the ambulance crew shall promptly contact EMS Central Dispatch to request the additional vehicles. The crew shall advise EMS Central Dispatch of the number and type of units needed."

Finally, EMS Rule 631-316 authorizes an ambulance company to take vehicles out of service under certain circumstances. It states:

"A licensee's ambulance may be taken out of service to the EMS Central Dispatch system if there are more than eight licensed ALS-staffed ambulances available for calls in Multnomah County...."

III. ARGUMENT

The EMS Director found that AA Ambulance violated Multnomah County Code Sections 6.31.190(F) and (G) and EMS Rule 631-390(C) by not notifying EMS Central Dispatch that AA was responding to a Code 3 call and by responding to a Code 3 call without EMS Dispatch approval.

AA Ambulance believes that its actions, in providing a driver in response to AA 61's request, without routing the request through EMS Central Dispatch, were authorized by the EMS rules.

1. MCC 6.31.190(G) and EMS Rule 631-390(C). These provisions require that all emergency responses be dispatched by EMS Central Dispatch unless a response is otherwise authorized by EMS rules. The question thus is whether the EMS rules authorized AA Ambulance's actions here.

2. Rule 631-320(E)(5). This rule authorizes AA Ambulance to send a BLS ambulance Code 3 to an emergency if an ALS ambulance requests additional manpower at the emergency scene and if the ALS ambulance transports the emergency patient. Since AA Ambulance uses the same vehicles and crews as both ALS and BLS vehicles, AA had the authority under this rule, treating AA 51 as a BLS ambulance, to respond to AA 61's request for a driver Code 3. Furthermore, AA Ambulance had the authority under EMS Rule 631-316 to treat AA 51 as a BLS vehicle since the system at the time had more than eight licensed ALS-staffed ambulances available for calls in Multnomah County. AA 61, an ALS vehicle, transported the patient. AA did have the responsibility under subsection (c) of this rule to notify EMS Dispatch by radio or telephone that AA 51 was responding, the location from which it was responding, and the location of the emergency. AA met this notification requirement.

Thus AA Ambulance's action was authorized by Rule 631-320(E)(5) and did not violate MCC 6.31.190(G) or EMS Rule 631-390(C).

3. Rule 631-320(F). This rule gives AA Ambulance standing authority to respond to an emergency call in its ambulance service area, which was the case here, provided AA had more than 50% of its ambulances available within its service area, which also was the case here. AA was required to use the triage guide to determine whether an emergency response was required, but the guide did not address this situation. AA also had the responsibility to notify EMS Dispatch that AA 51 was responding, who requested the dispatch, the location from which AA 51 was responding, and the location and nature of the emergency. AA met the notification requirement.

EMS Rule 631-320(G) does limit Rule 631-320(F) by stating that (F) is not applicable where an ambulance crew determines that additional vehicles are needed at the scene of an emergency. Rule 631-320(G) has to do with mass casualty incidents where more than one ambulance is needed at the scene of an emergency. This limitation, however, is not applicable here. AA 61 did not determine that another ambulance was needed. AA 61 simply needed a driver and called for one.

Thus AA Ambulance's action also was authorized by Rule 631-320(F) and did not violate MCC 6.31.190(G) or EMS Rule 631-390(C).

4. Rule 631-316. This rule authorized AA Ambulance to take AA 51 out of service to the EMS Central Dispatch system and to use AA 51 to transport a driver to AA 61. Thus for this reason also, AA's action did not violate MCC 6.31.190(G) or EMS Rule 631-390(C).

5. MCC 6.31.190(G). This code provision required AA to inform EMS Central Dispatch of a request for emergency services or when AA 51 became unavailable to respond to dispatch orders. As indicated by the communication transcript, AA Ambulance notified Central Dispatch of what was happening and thus did not violate this requirement.

IV. CONCLUSION

There are a variety of ways to look at this case. The most likely way is to treat AA 51 as having been taken out of service to the EMS Central Dispatch system and used merely to transport a driver to AA 61. This would be authorized by EMS Rule 631-316 or 631-320(E)(5) or both. In the alternative, AA 51 could be treated as acting in response to an AA service area call under EMS Rule 631-320(F). Whatever the treatment, AA's actions were authorized by the EMS rules and were not a violation.

The Hearings Officer should find that AA Ambulance did not violate the EMS rules or the Multnomah County Code.

Very truly yours,

Ch P. Thomas

Christopher P. Thomas

CPT:mab

cc: Pete Robedeau
Joe Acker

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In the Matter of) APPEAL
AA Ambulance) Hearing Memorandum
Run #691/208769A)

PROCEDURAL POSTURE OF THE CASE

On April 14, 1987 a citizen complaint was filed regarding an ambulance response by AA Ambulance (licensee) on April 13, 1987 at 3:24 p.m. near NE 7th and Alberta (hereinafter referred to as AA Run #691/208769A). (See Ex. 1.)

On May 19, 1987, Joe Acker III, Director of Emergency Medical Services (EMS), made a request of licensee, pursuant to EMS Rule 631-050, for the patient care report for the back-up ambulance from licensee as well as a copy of licensee's radio tape concerning the incident. (See Ex. 2.)

On May 21, 1987 Mr. Acker sent licensee's supervising physician, Michael Sequeira, a list of questions from the Quality Assurance Subcommittee regarding AA Run #691/208769A. (See Ex. 3.)

Dr. Sequeira responded to that list of questions in an undated report. (See Ex. 4.)

On June 4, 1987 the material requested by Mr. Acker on May 21 was delivered to him through Christopher Thomas, attorney for licensee.

On June 25, 1987 Mr. Acker sent Dr. Sequeira the findings of the Quality Assurance Subcommittee based, in part, on Dr. Sequeira's response. (See Ex. 5.)

1 On June 29, 1987 Mr. Acker sent a letter to the
2 complainant regarding this incident. The letter essentially
3 reported the findings of the Quality Assurance Committee and
4 Dr. Sequeira. (See Ex. 6.)

5 On September 15, 1987, Mr. Acker sent licensee a letter
6 notifying it of a \$250 fine for violations of County Code
7 provisions and EMS rules. (See Ex. 7.)

8 On November 13, 1987 Mr. Thomas, on behalf of licensee,
9 sent a letter giving Notice of Appeal of the violation. (See
10 Ex. 8.)

11 Some time prior to December 2, 1987 B.B. Bouneff was
12 contacted by Emergency Medical Services and requested to act as
13 Hearings Officer for this appeal.

14 On December 2, 1987 Mr. Bouneff notified Mr. Thomas that
15 the hearing on the appeal would be held on December 16, 1987 at
16 9:30 a.m. in his offices. (See Ex. 9.)

17 On December 4, 1987 Mr. Thomas confirmed with Mr. Acker
18 that the hearing had been reset to December 21, 1987 at 9:00 a.m.
19 (See Ex. 10.)

20 The County will be represented at the hearing by Sandra
21 Duffy, Assistant County Counsel. The County estimates that is
22 presentation will take no more than two hours and will consist of
23 testimony from three or four witnesses as well as other evidence.

24 STATEMENT OF FACTS

25 At approximately 3:00 p.m. on April 13, 1987 a neighbor
26 of patient called EMS Central Dispatch (911) and requested aid.

1 The patient's only symptom was shaking which had begun 30 minutes
2 earlier.

3 At 3:04 p.m. licensee's ambulance #61 (AA 61), an
4 advanced life support (ALS) ambulance, was dispatched Code 3 by
5 EMS to NE 7th and Alberta on an unknown problem. [On arrival at
6 3:06 p.m. the Emergency Medical Technicians (EMTs) saw the 36 year
7 old overweight black female patient lying on a bed in a dark
8 room. They found the patient conscious, oriented, excited and
9 shivering, although she denied being cold. Patient denied all
10 symptoms except shivering. The EMTs examined the patient, drew
11 blood, took an EKG and installed a heparin lock. (See Ex. 11.)

12 According to the EMTs the Portland Fire Bureau (PFB) came
13 on the scene and did a patient assessment including a VIS (taking
14 vital signs). (See Ex. 11.) However, PFB indicates it was
15 cancelled as their truck came around the corner at 7th and Alberta
16 at about 3:08 p.m. and that they never saw or assessed the patient
17 and left the scene at 3:11 p.m. (See Ex. 13.)

18 According to the EMTs the patient was then asked to move
19 into the living room (5-8 feet) to allow a more thorough exam with
20 better light. The EMTs prepared to get a stretcher to transport
21 patient to ambulance but she refused and insisted on walking out.
22 She walked out with the EMTs beside her and a friend followed the
23 patient with a chair "in case tremors increased". (See Ex. 13.)

24 The patient's neighbors provide facts which differ with
25 the EMTs on some of these facts. They allege that the EMTs had
26 the patient walk out to the ambulance barefoot and with no robe or

1 coat. The patient's friend was asked to carry the chair at the
2 EMTs' direction "in case she gets too tired". The neighbors
3 allege that only moments earlier the EMTs had used electrical
4 paddles to revive the patient and had injected her with
5 epinephrine. The EMTs deny such procedures took place. (See
6 Ex. 1.)]

7 AA 61 left the scene at 3:23 p.m. At 3:24 p.m. AA 61 was
8 enroute to Providence Hospital with the patient when she began to
9 have a seizure. (See Ex. 14.) EMT Filler had the driver,
10 EMT Hernandez, stop and help position patient for life saving
11 procedures. Two EMTs were needed because of patient's weight.
12 Numerous procedures were implemented. (See Exs. 11, 12a and 12b.)

13 A self-dispatched call internal to licensee was made by
14 AA 61 asking for Code 3 backup. (See Exs. 17 and 18.)

15 At 3:30 p.m. AA 51, also an ALS ambulance, informed EMS
16 that they were enroute to 7th and Alberta to assist AA 61. (See
17 Exs. 17 and 18.)

18 At 3:32 p.m. EMS calls AA dispatch to find out what AA 51
19 is doing. AA 51 explains that they are backing up AA 61. (See
20 Exs. 17 and 18.)

21 Backup AA 51 arrived at AA 61's location and dropped off
22 an EMT from AA 51 who drove the vehicle Code 3 to Emanuel at
23 3:38 p.m. (See Exs. 17 and 18.)

24 At 3:39 p.m. AA 51 is out-of-service because partner is
25 with AA 61. (See Exs. 17 and 18.)

26 At 3:40 p.m. AA 61 arrives at Emanuel. Patient had no

1 pulse and no blood pressure reading and is announced as a "99"
2 upon arrival (dead). According to the death certificate, she was
3 pronounced dead at 4:20 p.m. (See Exs. 15 and 19.)

4 APPLICABLE CODE PROVISIONS AND EMS RULES

5 Multnomah County Code provisions 6.31.190(F) and (G)
6 provide as follows:

7 6.31.190 Prohibited activities. No applicant
8 or licensee, applicant's or licensee's employe or
9 any other person doing business as defined hereunder
10 shall:

11 (F) Fail or refuse to promptly advise the
12 Emergency Medical Services Central Dispatch Office
13 of receipt of a request for emergency medical
14 assistance or when a licensee's ambulance becomes
15 available or non-available to respond to dispatch
16 orders;

17 (G) Respond by ambulance to an emergency call
18 unless so authorized by the Emergency Medical
19 Services Central Dispatch Office or under a
20 provision of this chapter or rule adopted hereunder;

21 EMS Rule 631-390(C) which provides as follows:

22 631-390 Prohibited activities. No applicant or
23 licensee, applicant's or licensee's employee or any
24 other person doing business as defined in MCC 6.31
25 shall:

26 (C) Respond by ambulance to an emergency call
unless so authorized by the Emergency Medical
Services Central Dispatch Office or under MCC 6.31.

27 Additionally, EMS Rules are 631-320(F) and (G) which are
28 potentially relevant, provide as follows:

29 ///

1 631-320 Ambulance Dispatch. The following
2 apply to licensees which operate emergency
ambulances.

3 (F) Standing Authorization to Respond. A
4 licensee shall be deemed to have a standing
5 authorization to respond by ambulance to any
6 emergency call received by the licensee, and may,
accordingly, immediately respond to the call,
provided that:

7 (1) The licensee's dispatcher relays the
8 information required in paragraph (B)¹ of this
rule, including the unit number of the ambulance,
9 and the location from which it is responding, to EMS
Central Dispatch immediately after dispatching the
ambulance. [EMS 3-80, 1/12/81; EMS 5-82, 11/15/82]

10 (2) The call is in the licensee's
11 ambulance service area; and, [EMS 3-80, 1/12/81; EMS
5/82, 11/15/82]

12 (3) The licensee has more than 50% of its
13 ambulances available within its ambulance service
area. [EMS 3-80, 1/12/81; EMS 5-82, 11/15/82]

14 (4) A licensee shall utilize the triage
15 guide adopted under these rules in determining
whether a call requires an emergency response. [EMS
16 3-80, 1/12/81; EMS 5-82, 11/15/82]

17 (5) EMS Central Dispatch may cancel any
18 ambulance dispatched by a licensee under this
standing authorization rule. [EMS 3/80, 1/12/81]

19 _____
20 ¹ (B) Receipt of Emergency Calls. Except as otherwise
21 provided in paragraph (F), upon receipt of a request for
22 emergency medical assistance a licensee shall immediately
relay the following information to EMS Central Dispatch.

- 23 (1) the location of the emergency
24 (2) the nature of the emergency
25 (3) the telephone number of the caller.

26 The above information shall be relayed by telephone
connected directly and exclusively to EMS Central
Dispatch.

1 (G) The provisions of paragraph (F) of this
2 rule shall not apply where an ambulance crew
3 determines that there is a need for one or more
4 additional vehicles at the scene of an emergency.
5 Where such a determination is made, the ambulance
6 crew shall promptly contact EMS Central Dispatch to
7 request the additional vehicles. The crew shall
8 advise EMS Central Dispatch of the number and type
9 of units needed. [EMS 3-80, 1/12/81; EMS 1-81,
10 2/23/81; EMS 3-81, 7/27/81; EMS 5-82, 11/15/82]

11 APPLICATION OF THE FACTS

12 AA 61, while enroute to Providence Hospital Code 1, did a
13 self-dispatch for a Code 3 ambulance as backup. In other words,
14 AA 61 called its ambulance company dispatcher for backup who in
15 turn dispatched AA 51 without notification to EMS dispatch.

16 MCC 6.31.190(F) was violated in two particulars:

17 (1) Failure of AA Ambulance dispatch and/or AA 51 to advise EMS
18 dispatch of the receipt (from AA 61) of a request for emergency
19 medical assistance²; and (2) Failure of AA Ambulance dispatch to
20 advise EMS dispatch that AA 51 was "non-available to respond to
21 dispatch orders".

22 MCC 6.31.190(G) and EMS Rule 631-390(C) were violated
23 when AA 51 responded to an emergency call that was not authorized
24 by the EMS Central Dispatch Office.

25 ² AA's attorney seems to proffer the argument that this rule was
26 not violated because no medical assistance was actually
rendered by AA 51. Of more importance is the request which,
according to EMS and AA tapes was for "Code 3 assistance".
Semantics should not be the name of the game in emergency
services.

1 Additionally, EMS Rule 631-320(B) was violated in that AA
2 Ambulance Dispatch, upon receipt of the request for a backup from
3 AA 61, failed to relay to EMS Central Dispatch the location and
4 nature of the emergency and the telephone number of the caller.
5 In fact, EMS dispatch became aware that AA 51 was out on a call
6 and called AA 51 to find out what was going on.

7 While it is true that EMS Rule 631-320(F) gives a
8 licensee "standing authorization to respond", there are five
9 conditions to that authorization (see page 6, supra). The most
10 important of those provisions is subsection 1 which requires that
11 the information required by EMS Rule 631-320(B) (location and
12 nature of the emergency and the telephone number of the caller)
13 and the unit number of the ambulance and the location from which
14 it is responding, be relayed to EMS Central Dispatch. This
15 information was not relayed; it had to be obtained by EMS Central
16 Dispatch by calling AA 51. The other conditions of the rule were
17 either met, unknown or unnecessary.

18 **REBUTTAL TO LICENSEE'S ANTICIPATED DEFENSE**

19 (1) Licensee states "we believe that EMS Rule 631-390(C)
20 is not applicable to this case." (See Ex. 16.) That rule
21 prohibits a licensee from responding by ambulance to an emergency
22 call unless authorized by the EMS Central Dispatch Office or
23 MCC 6.31. That provision applies by its terms to every licensee
24 or licensee's employee. Licensee has proffered no authority to
25 show otherwise.

26 (2) Licensee believes that EMS Temporary Rule 1-86-A

1 applies to this case. That temporary rule repealed EMS Rule
2 631-320(E) except paragraph A and adopted a new rule in its
3 place. The "relevant" section of the former rule, according to
4 licensee, is subsection (E)(5) which allowed a provider to
5 dispatch a BLS ambulance Code 3 to the emergency. The temporary
6 rule (subsection (A)(4)) authorized a provider to use its
7 ambulance for Code 1 or Code 3 calls until there are only eight
8 ambulances available. However, the rule says "Code 3 approved
9 calls"; the clear implication is authorization from EMS Central
10 Dispatch is required. (See App. 3, pg. 2.) That Temporary Rule
11 was abrogated upon the adoption of EMS Order 2/86 dated
12 December 15, 1986 which created new permanent rules. (See App. 4.)

13 The incident which resulted in this hearing took place
14 April 13, 1987. There were no temporary rules in effect at that
15 time.

16 Licensee indicates that this situation would have been
17 covered by EMS Rule 631-320(E)(5) if Temporary Rule 1-86-A wasn't
18 in place. That EMS rule applies to Basic Life Support (BLS)
19 ambulances of a licensee. Both AA 51 and AA 61 are Advanced Life
20 Support (ALS) ambulances.

21 While it is not clearly articulated, there appears to be
22 a line of argument here that AA 51 should be treated as a BLS
23 ambulance because it only provided BLS functions (acted as a
24 driver not as an EMT IV). That line of reasoning ignores two
25 important facts: (1) AA 51 responded to a request for a Code 3
26 backup -- a service only an ALS ambulance can provide; and (2)

1 AA 51's response took an ALS ambulance out-of-service without
2 notification to EMS Central Dispatch. The confusion which would
3 have occurred had another Code 3 call come into AA 51's service
4 area is obvious and could have resulted in a tragic loss of time
5 and perhaps life.

6 In any event, EMS Rule 631-320(E)(5) also requires the
7 licensee to advise EMS Dispatch of the number of the unit
8 responding, the location of the unit and the location of the
9 emergency. Again, AA 51 had to be contacted by EMS Dispatch to
10 obtain the necessary information. EMS Rule 631-320(E)(5)(c).

11 (3) Licensee also cites EMS Rule 631-320(F) (standing
12 authorization to respond) as authorization to self-dispatch. (See
13 Ex. 16.) As noted above, that rule requires relaying of specific
14 information by licensee to EMS Central Dispatch which did not
15 occur here. EMS Rule 631-320(F)(1).

16 CONCLUSION

17 Licensee has violated Multnomah County ordinances and EMS
18 rules in allowing AA 51 to respond Code 3 to AA 61's request for
19 backup. While it is true that it is not known whether another
20 ambulance was more appropriate to dispatch or whether that could

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22 ///

23 ///

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26 ///

1 have made a difference for the patient, the necessity to keep EMS
2 Central Dispatch informed of all ambulance activity is absolutely
3 critical in this life and death business.

4 Respectfully submitted,

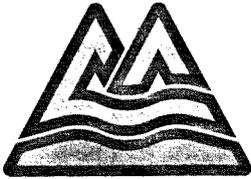
5 LAURENCE KRESSEL, COUNTY COUNSEL
6 FOR MULTNOMAH COUNTY, OREGON

7 BY Sandra Duffy
8 Sandra Duffy, OSB #82044
9 Assistant County Counsel
Of Attorneys for Multnomah County

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Page 11 - HEARING MEMORANDUM



MULTNOMAH COUNTY OREGON

DEPARTMENT OF GENERAL SERVICES
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J. MICHAEL DOYLE
H. H. LAZENBY, JR.
PAUL G. MACKEY
MARK B. WILLIAMS

TO: Jane McGarvin
Clerk of the Board

FROM: Sandra Duffy *Sandy*
Assistant County Counsel

DATE: July 27, 1988

RE: Appeal Hearing on August 2, 1988 on AA
Ambulance Violation Final Order

Enclosed are the following documents for the Board of County Commissioners in preparation for the above referenced hearing:

1. Proposed final order.
2. AA Ambulance's (AA) exceptions to the proposed final order.
3. Multnomah County Emergency Medical Services (EMS) objections to AA's exceptions.
4. EMS hearing memorandum.
5. AA letter hearing brief.

2040R/sh

Enclosures

cc: Chris Thomas

BOARD OF
COUNTY COMMISSIONERS
1988 JUL 29 PM 4:47
MULTNOMAH COUNTY
OREGON

1 In the Matter of)
AA Ambulance)
2 Run #691/208769A)

PROPOSED FINAL ORDER

3
4 This matter came on for hearing on December 21, 1987
5 before Hearings Officer B. B. Bouneff. AA Ambulance was
6 represented by its attorney, Christopher P. Thomas, and Multnomah
7 County Emergency Medical Services was represented by its
8 attorney, Sandra Duffy, Assistant County Counsel. After hearing
9 testimony of witnesses; reviewing documentary evidence including
10 tape recordings; reviewing legal memoranda of counsel; hearing
11 argument of counsel; and, considering the relevant portions of
12 the Multnomah County Code and the EMS Rules, the Hearings Officer
13 found, pursuant to MCC 6.31.180(G) and in accordance with
14 Attorney General's Model Rules of Procedure Rule 137-03-070, as
15 follows:

16 1. EVIDENCE.

17 Exhibits 1, 2, 7, 8, 9, 10, 11, 12, 14, 16, 17,
18 18, 19, 20, 21 and 22 are admitted into evidence. Exhibits 3, 4,
19 5, 6, 13 and 15 are not admitted into evidence.

20 2. FINDINGS OF FACT.

21 On April 13, 1987 AA Ambulance Unit Number 61
22 (AA61), an advanced life support (ALS) ambulance, left the scene
23 of an emergency response at 3:23 p.m. At 3:24 AA61 was en route
24 to Providence Hospital with the patient when she began to have a
25 seizure. Emergency Medical Technician (EMT) Filler had the

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1 driver, EMT Hernandez, stop and help position the patient for
2 life saving procedures.

3 AA61 called the AA Ambulance dispatcher and asked
4 for a backup car (an ALS ambulance with two Emergency Medical
5 Technicians, Class IV on board). AA61 testified they called the
6 AA dispatcher rather than Emergency Medical Services (EMS)
7 Central Dispatcher because the radio transmitting to AA was more
8 accessible. Evidence indicated the AA radio was in the rear
9 compartment whereas the EMS radio was in the front of the
10 vehicle. AA Dispatch sent AA51 to meet AA61. At 3:30 p.m. AA51,
11 also an ALS ambulance, informed EMS Dispatch Office that they
12 were en route to N.E. 7th and Alberta to assist AA61. AA51
13 explained it was backing up AA61. Evidence indicates that EMS
14 Dispatch was unsure as to what was occurring and at 3:32 p.m.,
15 EMS Dispatch Office telephoned AA Dispatch to find out what AA51
16 was doing. AA51 arrived at AA61's location and dropped off an
17 EMT from AA51 who drove AA61 Code 3 to Emanuel Hospital at 3:38
18 p.m.

19 At 3:39 p.m. AA51 informed EMS Dispatch Office
20 that it was out-of-service because his partner was with AA61.
21 Evidence was introduced to indicate that the 7th and Alberta
22 location was within AA Ambulance's service area. Undisputed
23 evidence indicated that when AA dispatched AA51, there were more
24 than eight ALS ambulances available for call in Multnomah County.
25 Further evidence indicated that at the time AA had more than 50%

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1 of its ALS ambulances available within its service area, and AA's
2 ambulances served both as ALS and as Basic Life Support (BLS)
3 ambulances.

4 I believe the crux of the matter is whether or not
5 the EMS Rules require specifically the crew of the ambulance to
6 request the EMS dispatch office for an additional vehicle or
7 whether such request could be from AA Ambulance's dispatcher or
8 other agent. It is also crucial as to whether or not such
9 dispatch of additional vehicle could be on the order of other
10 agencies other than the EMS dispatcher.

11 There was conflicting evidence regarding the radio
12 call from the crew of AA61 for backup. AA Ambulance stated that
13 the crew of AA61 called for a driver. The County alleged that
14 the request was for a "a car Code 3" (an ALS ambulance with two
15 Emergency Medical Technicians, Class IV, on board). While the
16 three tape recordings are of terrible quality, all three agree on
17 the salient points. I find that all three tapes indicate that
18 the request was for a car Code 3, and not for a driver.

19 However, I also find that the AA dispatcher and
20 the crew of AA51 (the backup ALS ambulance which responded to
21 AA61's request) did advise the EMS Central Dispatch office of the
22 request on the part of AA61 and the status of the two vehicles.

23 3. CONCLUSIONS OF LAW.

24 a. AA Ambulance did not assert that it had the
25 authorization of the Emergency Medical Services Dispatch Office
26 prior to dispatching AA51 to backup AA61. It did assert,

1 however, that other provisions of the County Code and/or the EMS
2 Rules allowed such a dispatch. I find that AA Ambulance violated
3 EMS Rule 6.31.390(C)¹ by responding by ambulance to an emergency
4 call without the authorization of Emergency Medical Services
5 Dispatch Office or under any other provision of MCC 6.31.

6 b. I find that AA Ambulance violated Multnomah
7 County Code 6.31.190(G)² by responding by ambulance to an
8 emergency call without the authorization of Emergency Services
9 Dispatch Office or under the authority of any other provisions of
10 this ordinance or EMS Rule.

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12 /// /// ///
13 /// /// ///

14
15 ¹ EMS Rule 631-390(C) provides: "Prohibited activities.
16 No applicant or licensee, applicant's or licensee's
17 employee or any other person doing business as defined
18 in MCC 6.31 shall:

19 * * *

20 (C) Respond by ambulance to an emergency call unless
21 so authorized by the Emergency Medical Services
22 Central Dispatch Office or under MCC 6.31."

23
24 ² MCC 6.31.190(G) provides: "Prohibited activities. No
25 applicant or licensee, applicant's or licensee's
26 employee or any other person doing business as defined
hereunder shall:

* * *

(G) Respond by ambulance to an emergency call unless
so authorized by the Emergency Medical Services
Central Dispatch Office or under a provision of
this ordinance or rule adopted hereunder."

1 c. I find that AA Ambulance did not violate MCC
2 6.31.190(F)³ because the AA dispatcher and crew of AA51 advised
3 the EMS Central Dispatch Office of the request on the part of
4 AA61 and the status of the two vehicles.

5 d. I find that EMS Rule 631-320(F) does not
6 apply in this situation.⁴

7 3 MCC 6.31.190(F) provides: "Prohibited activities. No
8 applicant or licensee, applicant's or licensee's
9 employee or any other person doing business as defined
hereunder shall:

10 * * *

11 (F) Fail or refuse to promptly advise the Emergency
12 Medical Services Central Dispatch Office of
13 receipt of a request for emergency medical
14 assistance or when a licensee's ambulance becomes
available or non-available to respond to dispatch
order.

15 4 EMS Rule 631-230(F) and (G) provide:

16 "(F) A licensee shall be deemed to have a standing
17 authorization to respond by ambulance to an emergency
18 call received by the licensee, and may, accordingly,
immediately respond to the call, provided that:

19 "(1) The licensee's dispatcher relays the
20 information required in paragraph (B) of this rule
21 [location and nature of emergency and telephone
22 number of caller], including the unit number of
the ambulance, and the location from which it is
23 responding, to EMS Central Dispatch immediately
after dispatching the ambulance.

24 "(2) The call is in the licensee's ambulance
25 service area; and,

26 "(3) The licensee has more than 50% of its
ambulances available within its ambulance service
area.

"(4) A licensee shall utilize the triage guide

1 e. I find that during the pertinent times
2 herein, AA did not take AA51 out of service.⁵

3 adopted under these rules in determining whether a
4 call requires an emergency response.

5 "(5) EMS Central Dispatch may cancel any
6 ambulance dispatched by a licensee under this
standing authorization rule."

7 "(G) The provisions of paragraph (F) of this rule shall
8 not apply where an ambulance crew determines that
9 there is a need for one or more additional
10 vehicles at the scene of an emergency. Where such
11 a determination is made, the ambulance crew shall
promptly contact EMS Central Dispatch to request
the additional vehicles. The crew shall advise
EMS Central Dispatch of the number and types of
units needed."

12 5 EMS Rule 631-316, 631-314, and 631-320(E) (5) provide:

13 "631-316 A licensee's ambulance may be taken out of
14 service to the EMS Central Dispatch system if there are
15 more than eight licensed ALS-staffed ambulances
available for calls in Multnomah County. . ."

16 "631-314 The Crew of each vehicle shall promptly
17 inform EMS Central Dispatch of the following changes in
status by radio:

18 ". . .

19 "(I) Out of service (no longer available to respond to
20 dispatch orders from EMS Central Dispatch.)"

21 "631-320(E) (5) Licensee's BLS ambulance may respond
22 Code-3 to the scene of an emergency under the following
conditions:

23 "(a) An ALS ambulance requests addition manpower
at the scene of an emergency and the ALS ambulance
24 transports the emergency patients; or

25 "(b) . . .

26 "(c) Licensee advises EMS Dispatch by radio or
telephone of the number of the unit responding,

1 4. ORDER.

2 Based upon my finding that AA Ambulance did
3 violate a County Code provision and an EMS Rule, I find that the
4 fine of \$250.00 on the part of the Director of Emergency Medical
5 Services (See Exhibit 7) is appropriate and order that it be paid
6 by licensee.

7 5. APPEAL RIGHTS.

8 a. Final Order. Pursuant to MCC 6.31.180(J),
9 the Board of County Commissioners (BCC) may accept the proposed
10 final order, modify it or reject it and prepare, or cause a
11 person designated by it to prepare a final order.

12 b. Reconsideration. MCC 6.31.184 provides that
13 the BCC may reconsider a final order upon the filing of a
14 petition for reconsideration within 15 days after issuance of the
15 order. If no action is taken by the BCC within 15 days after the
16 petition is filed, the petition shall be deemed denied. If the
17 petition is allowed by vote of the BCC, a hearing on the
18 reconsideration shall be held and an amended order shall be
19 issued.

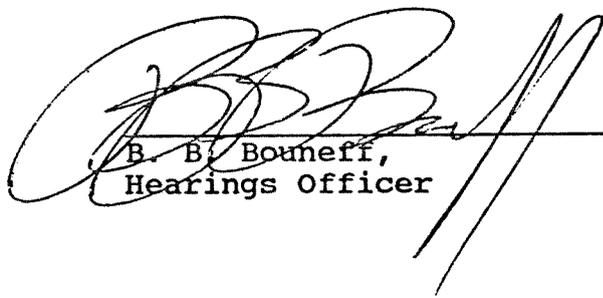
20 c. Judicial Review. Review of the action of the
21 BCC shall be taken solely and exclusively by writ of review in
22 the manner set forth in ORS 34.010 to 34.100.

23 /// /// ///

24 _____

25 the location from which the unit is responding and
26 the location of the emergency."

1 THIS PROPOSED FINAL ORDER IS ADOPTED this 15th day
2 of June, 1988.

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6 B. B. Bouneff,
7 Hearings Officer

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1 COUNTY COUNSEL FOR BEFORE THE MULTNOMAH COUNTY COMMISSION
2 MULTNOMAH COUNTY, ORE.

3 In the Matter of AA Ambulance)
4)
5) EXCEPTIONS OF AA AMBULANCE
6 Run #691/208769A) TO PROPOSED FINAL ORDER

4

5 AA Ambulance submits the following exceptions to the
6 Proposed Final Order in this matter:

7 1. Findings of Fact. The Findings of Fact, on page 3,
8 lines 11 through 18, describe one factual issue in this
9 proceeding as whether the crew of AA Ambulance's vehicle number
10 61 called for another ALS ambulance or for a driver. The
11 Proposed Final Order states that AA61 called for "a car Code 3"
12 (Code 3 means as fast as possible with siren sounding). AA
13 Ambulance agrees that this was the language used. AA Ambulance
14 contends, however, that what the crew of AA61 intended by this
15 was to get a driver who would drive AA61 to the hospital while
16 the crew tended the patient. The record clearly establishes that
17 this is what was intended, it is what actually occurred, and it
18 has not been disputed that this is what was intended. Thus at
19 the end of line 18 on page 3, it would be appropriate to add,
20 "The intention of the AA61 crew was to get a driver to AA61 as
21 quickly as possible."

22 2. Conclusions of Law. The Hearings Officer found that AA
23 Ambulance violated EMS Rule 6.31.390(C). That rule prohibits an
24 ambulance provider from responding by ambulance to an emergency
25 call unless so authorized by EMS Central Dispatch or by Multnomah
26 County Code Chapter 6.31.

1 The Hearings Officer also found that AA Ambulance violated
2 MCC 6.31.190(G). That code section prohibits an ambulance
3 provider from responding by ambulance to an emergency call unless
4 so authorized by EMS Central Dispatch or by MCC Chapter 6.31 or a
5 rule adopted thereunder.

6 The EMS rule and code section supposedly violated by AA
7 Ambulance are essentially the same. The issue in this proceeding
8 is whether AA Ambulance vehicle 61 had the authority to call AA's
9 dispatcher for "a car Code 3" in order to get a driver to the
10 scene as soon as possible. If any EMS rule authorizes this, then
11 AA Ambulance did not commit a violation. If no EMS rule
12 authorizes this, then AA61 should have called EMS Central
13 Dispatch rather than AA's dispatcher and, by failing to do so,
14 committed a violation.

15 AA Ambulance maintains that AA61 had authority under an EMS
16 rule to call AA's dispatcher for "a car Code 3" in order to get a
17 driver to the scene as soon as possible. The Proposed Final
18 Order concludes to the contrary. AA Ambulance therefore takes
19 exception to the conclusions of the Proposed Final Order.

20 EMS Rule 631-320(F). First, AA Ambulance maintains that it
21 had authority to act as it did under EMS Rule 631-320(F). That
22 rule authorizes an ambulance provider to respond immediately to
23 an emergency call from a licensee if:

- 24 (1) The provider's dispatcher relays certain information to
25 EMS Central Dispatch immediately after dispatching the
26 ambulance. Here, the Hearings Officer found that AA51

1 notified EMS Central Dispatch that it was en route to
2 NE 7th and Alberta to back up AA61 and subsequently
3 notified EMS that it was out of service because one
4 paramedic was in AA61. The applicable provisions of
5 this requirement were met.

6 (2) The call is in the provider's service area. Here, the
7 Hearings Officer found that the evidence was that the
8 call was in AA's service area. This requirement was
9 met.

10 (3) The licensee has more than 50% of its ambulances
11 available within its ambulance service area. Here, the
12 Hearings Officer found that the evidence was that AA
13 Ambulance had more than 50% of its ambulances available
14 within its service area. This requirement was met.

15 (4) The licensee uses the triage guide to determine whether
16 the call needs an emergency response. Here, the triage
17 guide was not applicable, since the need was for a
18 driver for a patient who already was the subject of a
19 valid call. This requirement was not applicable.

20 In other words, Rule 631-320(F) appears to authorize AA
21 Ambulance's action in this case. There is an exception, however,
22 in Rule 631-320(G), which says that the preceding rule does not
23 apply where an ambulance crew determines that there is a need for
24 one or more additional vehicles at the scene of an emergency.
25 The purpose of this exception is to give EMS Central Dispatch
26 control over the dispatching of ambulances to a multiple casualty

1 emergency. Here, there was not a multiple casualty emergency.
2 Rather, there was a need for another driver. The exception
3 therefore does not apply. Thus, with the exception being
4 inapplicable, AA Ambulance's action in this case was authorized
5 by EMS Rule 631-320(F).

6 Notwithstanding this, for some unexplained reason, the
7 Hearings Officer concluded that Rule 631-320(F) "does not apply
8 in this situation." AA Ambulance can imagine only two possible
9 thoughts the Hearings Officer might have had. He might have
10 concluded the rule does not apply because the call was not an
11 emergency call. If that is the case, however, there was no
12 violation because the two supposed violations only can occur if
13 there is an unauthorized response to "an emergency call." The
14 other possibility is that the Hearings Officer believed that the
15 "multiple casualty" exception applied to this case. If so, his
16 legal conclusion was incorrect.

17 EMS Rule 631-316. This rule authorizes a licensee to take
18 an ambulance out of service to EMS Central Dispatch if there are
19 more than eight ALS-staffed ambulances available to the system.
20 Here, the Hearings Officer found that the evidence was that there
21 were more than eight ALS ambulances available to the system. EMS
22 Rule 631-314 requires the crew of a vehicle to inform EMS Central
23 Dispatch promptly by radio if it goes out of service so that it
24 no longer is able to respond to EMS dispatch orders. Here, the
25 Hearings Officer found that the crew of AA51 did notify EMS
26

1 Central Dispatch that it was proceeding to back up AA61. Thus AA
2 Ambulance appears to have authority for what it did.

3 Once an ALS ambulance is taken out of service, it can be
4 treated as a BLS ambulance. The Hearings Officer found that the
5 evidence was that AA's ambulances serve as both ALS and BLS
6 ambulances. EMS Rule 631-320(E)(5) authorizes a provider to
7 dispatch a BLS ambulance Code 3 to the scene of an emergency at
8 the request of an ALS ambulance for additional manpower if the
9 ALS ambulance transports emergency patients and if the provider
10 advises EMS Central Dispatch of certain information. Here, AA61
11 requested a car Code 3 in order to get a driver, AA61 transported
12 the patient, and AA Ambulance gave the appropriate information to
13 EMS Central Dispatch.

14 Here too, however, for some unexplained reason, the Hearings
15 Officer found that AA Ambulance did not take AA51 out of service.
16 This is strange because AA51 clearly was not available to EMS
17 Central Dispatch and everyone knew it. Here too, the Hearings
18 officer's conclusion was incorrect.

19 3. Penalty. The EMS Office imposed the maximum fine on AA
20 Ambulance (\$250), and the Hearings Officer upheld it. Even if
21 there was a violation, which AA Ambulance vigorously disputes,
22 the violation at most was the use of the wrong words and should
23 not have been pursued much less subjected to the maximum fine.

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For the reasons stated, the Hearings Officer's Proposed
Final Order should be rejected and an order entered exonerating
AA Ambulance.

Respectfully submitted,

Isl Christopher Thomas
Christopher P. Thomas

BEFORE THE BOARD OF COUNTY COMMISSIONERS

In the Matter of AA Ambulance) OBJECTIONS TO AA AMBULANCE'S
Run #691/208769A) EXCEPTIONS TO PROPOSED
) FINAL ORDER

EMS objects to AA Ambulance's (AA) Exceptions to the Proposed Final Order of hearings officer B. B. Bouneff as follows:

1. Findings of Fact. AA requests the addition of the following language to the proposed order: "The intention of the AA 61 crew was to get a driver to AA 61 as quickly as possible." However, AA agrees that AA 61 called for "a car code 3". The hearings officer's findings are based on what actually occurred, not on what was intended. The proposed language should not be added.

2. Conclusions of Law. The Proposed Final Order concludes that AA Ambulance Number 61 (AA/61) did not have authority under any EMS Rule to call AA's dispatcher for a "car code 3" in order to have an Emergency Medical Technician (EMT) meet AA 51 and drive it to the hospital. EMS Rule 6.31.390(C) and MCC 6.31.190(G) prohibit an ambulance driver from responding by ambulance to an emergency call unless authorized by EMS central dispatch (911).

a) Rule 631-320(F). AA asserts that EMS Rule 631-320(F) gives it the authority to act as it did. It purports to be mystified as to why the hearings officer concluded that the Rule did not apply. On page 2 of its

Exceptions, AA paraphrases the requirements of EMS Rule 631-320(F) as follows:

[EMS Rule 631-320(F)] authorizes an ambulance provider to respond immediately to an emergency call for a licensee if:

- (1) The provider's dispatcher relays certain information to EMS Central Dispatch immediately after dispatching the ambulance. Here the hearings officer found that AA 51 notified EMS Central Dispatch that it was enroute to NE 7th and Alberta to back up AA 61 and subsequently notified EMS that it was out of service because one paramedic was in AA 61. The applicable provisions of this requirement were met. (Emphasis added.)

It is the above-quoted "certain information" that is critical to the analysis of the applicability of the Rule. What EMS Rule 631-320(F)(1) actually requires is:

631-320 Ambulance Dispatch. The following apply to licensees which operate emergency ambulances.

(F) Standing Authorization to Respond. A licensee shall be deemed to have a standing authorization to respond by ambulance to any emergency call received by the licensee, and may, accordingly, immediately respond to the call, provided that:

- (1) The licensee's dispatcher relays the information required in paragraph (B) of this rule, including the unit number of the ambulance, and the location from which it is responding, to EMS Central Dispatch immediately after dispatching the ambulance.

And the information required in paragraph (B) of the rule is:

(B) Receipt of Emergency Calls. Except as otherwise provided in paragraph (F), upon

receipt of a request for emergency medical assistance a licensee shall immediately relay the following information to EMS Central Dispatch.

- (1) the location of the emergency
- (2) the nature of the emergency
- (3) the telephone number of the caller.

The above information shall be relayed by telephone connected directly and exclusively to EMS Central Dispatch.

The required information (location and nature of the emergency, the telephone number of the caller, the unit number of the ambulance and the location from which it is responding) was not relayed to EMS Central Dispatch; it had to be obtained by EMS Central Dispatch by calling AA 51. (See Multnomah County's Appeal Hearing Memorandum.)

AA Ambulance "can imagine only two possible thoughts the Hearings Officer might have had" to determine that Rule 631-320(f) does not apply. First, that he concluded that it was not an emergency call, or second, that the "multiple casualty exception" applied to this case. There are no facts, or legal conclusions by the hearings officer which support these theories.

It is quite clear that EMS Rule 631-320(f) did not apply because the information required under that rule, which would authorize AA's actions, was not relayed by the proper party to the property party.

b) EMS Rule 631-316; 631-314 and 631-320(E)(5). AA alleges that it took ambulance AA 51 "out of

service" and therefore it could respond as a Basic Life Support (BLS) ambulance Code 3 to an emergency as backup for additional manpower to AA 61. Joe Acker, EMS Director, testified at the hearing that an Advance Life Support (ALS) ambulance is "out of service" if more than eight ALS ambulances are available, and a request is made to "go out of service". The Hearings Officer found that AA 51 was not "out of service" because it had never taken itself out of service with EMS Dispatch. AA 51 responded to the "car Code 3" call as an ALS ambulance; it did not know its purpose was to deliver a driver for AA 61. Because AA 51 was not "out of service", EMS Rules 631-316, 631-314 and 631-320(E)(5) do not apply and do not authorize the actions taken by AA 51.

3. Penalty. AA objects to the maximum fine of \$250 imposed by the hearings officer. The purpose of the fine is to deter similar violations in the future. AA asserts that AA 61 used the ambulance phone to call AA Dispatch because it was closer and that it intended to call for a driver only. The failure to contact EMS Dispatch left EMS Dispatch confused as to what AA 51 was doing and made an ALS ambulance unavailable for another emergency call. The minutes which are lost because of confusion can cost the life of a patient who does not get medical care as quickly as they should. In light of the high stakes, a \$250 fine is a small deterrent.

4. Conclusion

Multnomah County Emergency medical Services respectfully request that the Board adopt the Proposed Final Order of the Hearings Officer as submitted.

DATED this _____ day of _____, 1988.

Respectfully submitted,

LAURENCE KRESSEL, COUNTY COUNSEL
FOR MULTNOMAH COUNTY, OREGON

By _____
Sandra Duffy
Assistant County Counsel

2034R/dm

CHRISTOPHER P. THOMAS

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PORTLAND, OREGON 97201
TELEPHONE (503) 227-1116

December 18, 1987

Mr. B.B. Bouneff
Bouneff, Chally & Marshall
The Logus Building
529 SE Grand Avenue
Portland, OR 97214-2276

Subject: EMS - AA Ambulance Appeal Request

Dear Mr. Bouneff:

This letter will constitute AA Ambulance's hearing brief in this matter.

I. FACTS

AA Ambulance believes that the following facts are undisputed:

On April 13, 1987, AA Ambulance vehicle 61 was transporting a patient to Providence Hospital, having been dispatched by Emergency Medical Services Central Dispatch. There were two paramedics in the ambulance, one attending the patient and one driving. During transport, the patient began having seizures. The driver stopped the ambulance to assist the attending paramedic. Within a very short time, the patient went into cardiac arrest, and the driver, being unable to leave the patient, radioed to AA Ambulance to send a driver. The driver radioed AA Ambulance rather than EMS Central Dispatch because the AA radio was more accessible, being in the rear compartment of the ambulance, whereas the EMS radio was less accessible, in the front compartment. AA Ambulance sent its vehicle 51 "Code 3", in other words with lights and siren operating, to meet AA 61. AA 51 had been at Emanuel Hospital. When AA dispatched AA 51 to meet AA 61, there were more than eight Advanced Life Support staffed ambulances available for calls in Multnomah County. In addition, at the time of the dispatch AA had more than 50% of its ambulances available within its service area.

AA 51 had two paramedics. AA 51 met AA 61 at NE 7th and Alberta, which is in AA Ambulance's service area. While en route to 7th and Alberta, AA 51 radioed in to EMS Central Dispatch that it was on call. AA 51 also was in communication with the AA dispatcher. In addition, the AA dispatcher and EMS Central Dispatch were in communication. The text of the conversations, reconstructed from EMS and AA tapes, is approximately as follows:

(1523) (Time of Day)

61 (To AA Dispatch): 61.

AA Dispatch (To 61): 61.

61 (To AA Dispatch): We're Code 1 to Providence
25.4. (Mileage)

AA Dispatch: At 1524.

61 (To EMS Dispatch): 61. We're Code 1 to Providence.

EMS Dispatch (To 61): 61. 1524.

(1528)

61 (To AA Dispatch): We're stopping for a short while
at 7th and Alberta.

AA Dispatch (To 61): 1528.

AA Dispatch (To ?): Time presently is 1529, 4/13/87...
Garbled...down the street...

(1530)

61 (To AA Dispatch): 61.

AA Dispatch (To 61). Go ahead.61.

61 (To AA Dispatch): 61 arrived...You got any cars in the
area? We need a Code 3 back-up at 7th
and Alberta.

AA Dispatch (To 61): Copy.

AA Dispatch (To 51): 51.

AA Dispatch (To 61): 61?

AA Dispatch (To 51): 51.

51 (To AA Dispatch): 51.

AA Dispatch (To 51): Stand by one [minute,] 51.

AA Dispatch (To 61): 61?

AA Dispatch (To 51): 51, would you advise EMS that 61 went through us to ask for a Code 3 backup at 7th & Alberta, and you're responding.

51 (To AA Dispatch): Did you want us to go on that?

AA Dispatch (To 51): Yes, sir.

51 (To AA Dispatch): Okay, we're en route... en route to the car.

51 (To AA Dispatch): Does anyone know if seizure prior to call or after?

61 (To AA Dispatch): Garbled.

51 (To AA Dispatch): Go ahead.

AA Dispatch (To ?): Better get them back in district.

EMS Dispatch (To 51): Last unit, say again?

51 (To EMS Dispatch): 51.

EMS Dispatch (To 51): 51, go ahead.

51 (To EMS Dispatch): We're clear of Emanuel, we'll be going to ..(Garbled)....We're on that call, 7th & Alberta.

EMS Dispatch (To 51): 51, I copied you're clear of Emanuel, but I didn't get the rest.

51 (To EMS Dispatch): 51's en route, 7th & Alberta.

AA Dispatch (To 51): Say again 51.

Some garbled talk here.

51 (To AA Dispatch): We'll be clear of Emanuel, but I didn't get the rest.

51 (To EMS Dispatch): We're on that call to 7th & Alberta.

51 (To AA Dispatch): We're en route to 7th & Alberta.

AA Dispatch (To 51): Copy, at 1528, you're backing up 61,
unknown what they've got.

EMS Dispatch (To 51): At 1531, backing up 61 on 7th &
Alberta. Is that a Code 1?

51 (To EMS Dispatch): A Code-3 backup.

EMS Dispatch (To 51): 7th & Alberta, copy.

1532

(Phone rings at AA Dispatch)

AA Dispatch (To EMS Dispatch): AA Ambulance.

EMS Dispatch (To AA Dispatch): Hello, this is EMS.

AA Dispatch (To EMS Dispatch): Hi, EMS.

EMS Dispatch (To AA Dispatch): I'm confused by 51.

AA Dispatch (To EMS Dispatch): Well, 61 requested Code 3
backup at 7th & Alberta with
the patient they were
transporting.

EMS Dispatch (To AA Dispatch): With the patient they were
transporting?

AA Dispatch (To EMS Dispatch): Yes, so 51's on their way
from Emanuel to assist them.

EMS Dispatch (To AA Dispatch): And 61 sort of stopped at 7th
& Alberta.

AA Dispatch (To EMS Dispatch): Yes.

EMS Dispatch (To AA Dispatch): Okay, that makes more sense.

AA Dispatch (To EMS Dispatch): Yeah. Don't feel too bad. I
felt the same way you did.

EMS Dispatch (To AA Dispatch): There is....There is a
disturbance of some kind at
9th & Alberta.

AA Dispatch (To EMS Dispatch): Oh, goodie.

EMS Dispatch (To AA Dispatch): Oh, a large gathering of
kids, and it is all

anonymous, but somebody is supposed to have a knife and somebody's supposed to have a handgun.

AA Dispatch (To EMS Dispatch): Oh, jeez. Okay, thanks.

EMS Dispatch (TO AA Dispatch): Okay.

AA Dispatch (To EMS Dispatch): Thanks.

EMS Dispatch (Operator conversations): 1532. They stopped at 7th & Alberta and asked for a Code 3 backup ambulance. Well, that's the closest thing I could figure out. Well, maybe a seizure, but...I don't know why, it must have gone to shit after they started to transport.

1533

AA Dispatch (To 51): 51.

51 (To AA Dispatch): 51.

AA Dispatch (To 51): There is a disturbance call at 9th & Alberta, weapons involved. You might be aware of that little situation.

51 (To AA Dispatch): 10-4, we're about, well they're right in front of us.

AA Dispatch (To 51): 10-4. ..

1535

51 (To AA Dispatch): 51's there.

AA Dispatch (To 51): Copy.

61 (To EMS Dispatch): 61 calling.

EMS Dispatch (To 61): 61.

61 (To EMS Dispatch): Yeah, we'll be 10-62 to Emanuel Code 3 with a Code 99.

EMS Dispatch (To 61): 61, at 1538.

EMS Dispatch (Operator conversations): Code 3 to Emanuel now with a 99. So she died on them.

51 (To EMS Dispatch): Yeah, I'm going to be 10-7. I'm gonna follow my partner in, he's with 61, he's riding to Emanuel.

EMS Dispatch (Operator Conversations): At 1539. Now half of 51's riding in the ambulance, probably pumping on her. Well, he went Code 1 originally, maybe the Rescue just went home.

61 (To EMS Dispatch): 61, 10-64

EMS Dispatch (To 61): 61, 1540.

EMS Dispatch (Operator conversation): She was foaming at the mouth. They transport Code 1 to the hospital, all of a sudden 51 clears Emanuel, says "we're going." Weird.

During the course of these events, one paramedic from AA 51 drove AA 61 to Providence Hospital Code 3, while the other AA 51 paramedic followed in AA 51. The total time AA 51 was involved in the call was 15 minutes.

AA Ambulances maintains an Advanced Life Support (ALS) capacity on all its ambulances and thus uses the same ambulances and crews for both ALS and Basic Life Support (BLS) services. BLS services are a lower level of services than ALS services.

II. REGULATIONS

The relevant County Code and EMS Rule provisions are as follows.

1. General. County Code Sections 6.31.190(F) and (G) and EMS Rules 631-390(B) and (C) are essentially the same. The County Code provisions state:

"No...licensee...or licensee's employees...shall:

"(F) Fail or refuse to promptly advise Emergency Medical Services Central Dispatch Office of receipt of a request for emergency assistance or when a licensee's ambulance becomes available or non-available to respond to dispatch orders;

"(G) Respond by ambulance to an emergency call unless so authorized by the Emergency Medical Services Central Dispatch Office or under a provision of this chapter or rule adopted thereunder."

EMS Rules 631-390(B) and (C) contain nearly identical language.

2. Authorized Response. Several EMS Rules authorize a direct response to calls, rather than routing the calls to EMS Central Dispatch.

EMS Rule 631-320(E) (5) states:

"Licensee's BLS ambulance may respond Code-3 to the scene of an emergency under the following conditions:

"(a) An ALS ambulance requests additional manpower at the scene of an emergency and the ALS ambulance transports the emergency patients; or

"(b)...

"(c) Licensee advises EMS Dispatch by radio or telephone of the number of the unit responding, the location from which the unit is responding and the location of the emergency."

EMS Rule 631-320(F) states:

" A licensee shall be deemed to have a standing authorization to respond by ambulance to an emergency call received by the licensee, and may, accordingly, immediately respond to the call, provided that:

"(1) The licensee's dispatcher relays the information required in paragraph (B) of this rule [location and nature of emergency and telephone number of caller], including the unit number of the ambulance, and the location from which it is responding, to EMS Central Dispatch immediately after dispatching the ambulance.

"(2) The call is in the licensee's ambulance service area; and,

"(3) The licensee has more than 50% of its ambulances available within its ambulance service area.

"(4) A licensee shall utilize the triage guide adopted under these rules in determining whether a call requires an emergency response.

"(5) EMS Central Dispatch may cancel any ambulance dispatched by a licensee under this standing authorization rule."

EMS Rule 631-320(G), imposing a limitation on a provider's authority under Rule 631-320(F), states:

"The provisions of paragraph (F) of this rule shall not apply where an ambulance crew determines that there is a need for one or more additional vehicles at the scene of an emergency. Where such a determination is made, the ambulance crew shall promptly contact EMS Central Dispatch to request the additional vehicles. The crew shall advise EMS Central Dispatch of the number and type of units needed."

Finally, EMS Rule 631-316 authorizes an ambulance company to take vehicles out of service under certain circumstances. It states:

"A licensee's ambulance may be taken out of service to the EMS Central Dispatch system if there are more than eight licensed ALS-staffed ambulances available for calls in Multnomah County...."

III. ARGUMENT

The EMS Director found that AA Ambulance violated Multnomah County Code Sections 6.31.190(F) and (G) and EMS Rule 631-390(C) by not notifying EMS Central Dispatch that AA was responding to a Code 3 call and by responding to a Code 3 call without EMS Dispatch approval.

AA Ambulance believes that its actions, in providing a driver in response to AA 61's request, without routing the request through EMS Central Dispatch, were authorized by the EMS rules.

1. MCC 6.31.190(G) and EMS Rule 631-390(C). These provisions require that all emergency responses be dispatched by EMS Central Dispatch unless a response is otherwise authorized by EMS rules. The question thus is whether the EMS rules authorized AA Ambulance's actions here.

2. Rule 631-320(E)(5). This rule authorizes AA Ambulance to send a BLS ambulance Code 3 to an emergency if an ALS ambulance requests additional manpower at the emergency scene and if the ALS ambulance transports the emergency patient. Since AA Ambulance uses the same vehicles and crews as both ALS and BLS vehicles, AA had the authority under this rule, treating AA 51 as a BLS ambulance, to respond to AA 61's request for a driver Code 3. Furthermore, AA Ambulance had the authority under EMS Rule 631-316 to treat AA 51 as a BLS vehicle since the system at the time had more than eight licensed ALS-staffed ambulances available for calls in Multnomah County. AA 61, an ALS vehicle, transported the patient. AA did have the responsibility under subsection (c) of this rule to notify EMS Dispatch by radio or telephone that AA 51 was responding, the location from which it was responding, and the location of the emergency. AA met this notification requirement.

Thus AA Ambulance's action was authorized by Rule 631-320(E)(5) and did not violate MCC 6.31.190(G) or EMS Rule 631-390(C).

3. Rule 631-320(F). This rule gives AA Ambulance standing authority to respond to an emergency call in its ambulance service area, which was the case here, provided AA had more than 50% of its ambulances available within its service area, which also was the case here. AA was required to use the triage guide to determine whether an emergency response was required, but the guide did not address this situation. AA also had the responsibility to notify EMS Dispatch that AA 51 was responding, who requested the dispatch, the location from which AA 51 was responding, and the location and nature of the emergency. AA met the notification requirement.

EMS Rule 631-320(G) does limit Rule 631-320(F) by stating that (F) is not applicable where an ambulance crew determines that additional vehicles are needed at the scene of an emergency. Rule 631-320(G) has to do with mass casualty incidents where more than one ambulance is needed at the scene of an emergency. This limitation, however, is not applicable here. AA 61 did not determine that another ambulance was needed. AA 61 simply needed a driver and called for one.

Thus AA Ambulance's action also was authorized by Rule 631-320(F) and did not violate MCC 6.31.190(G) or EMS Rule 631-390(C).

4. Rule 631-316. This rule authorized AA Ambulance to take AA 51 out of service to the EMS Central Dispatch system and to use AA 51 to transport a driver to AA 61. Thus for this reason also, AA's action did not violate MCC 6.31.190(G) or EMS Rule 631-390(C).

5. MCC 6.31.190(G). This code provision required AA to inform EMS Central Dispatch of a request for emergency services or when AA 51 became unavailable to respond to dispatch orders. As indicated by the communication transcript, AA Ambulance notified Central Dispatch of what was happening and thus did not violate this requirement.

IV. CONCLUSION

There are a variety of ways to look at this case. The most likely way is to treat AA 51 as having been taken out of service to the EMS Central Dispatch system and used merely to transport a driver to AA 61. This would be authorized by EMS Rule 631-316 or 631-320(E)(5) or both. In the alternative, AA 51 could be treated as acting in response to an AA service area call under EMS Rule 631-320(F). Whatever the treatment, AA's actions were authorized by the EMS rules and were not a violation.

The Hearings Officer should find that AA Ambulance did not violate the EMS rules or the Multnomah County Code.

Very truly yours,

Ch P. Thomas

Christopher P. Thomas

CPT:mab

cc: Pete Robedeau

Joe Acker

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In the Matter of) APPEAL
AA Ambulance) Hearing Memorandum
Run #691/208769A)

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PROCEDURAL POSTURE OF THE CASE

On April 14, 1987 a citizen complaint was filed regarding an ambulance response by AA Ambulance (licensee) on April 13, 1987 at 3:24 p.m. near NE 7th and Alberta (hereinafter referred to as AA Run #691/208769A). (See Ex. 1.)

On May 19, 1987, Joe Acker III, Director of Emergency Medical Services (EMS), made a request of licensee, pursuant to EMS Rule 631-050, for the patient care report for the back-up ambulance from licensee as well as a copy of licensee's radio tape concerning the incident. (See Ex. 2.)

On May 21, 1987 Mr. Acker sent licensee's supervising physician, Michael Sequeira, a list of questions from the Quality Assurance Subcommittee regarding AA Run #691/208769A. (See Ex. 3.)

Dr. Sequeira responded to that list of questions in an undated report. (See Ex. 4.)

On June 4, 1987 the material requested by Mr. Acker on May 21 was delivered to him through Christopher Thomas, attorney for licensee.

On June 25, 1987 Mr. Acker sent Dr. Sequeira the findings of the Quality Assurance Subcommittee based, in part, on Dr. Sequeira's response. (See Ex. 5.)

1 On June 29, 1987 Mr. Acker sent a letter to the
2 complainant regarding this incident. The letter essentially
3 reported the findings of the Quality Assurance Committee and
4 Dr. Sequeira. (See Ex. 6.)

5 On September 15, 1987, Mr. Acker sent licensee a letter
6 notifying it of a \$250 fine for violations of County Code
7 provisions and EMS rules. (See Ex. 7.)

8 On November 13, 1987 Mr. Thomas, on behalf of licensee,
9 sent a letter giving Notice of Appeal of the violation. (See
10 Ex. 8.)

11 Some time prior to December 2, 1987 B.B. Bouneff was
12 contacted by Emergency Medical Services and requested to act as
13 Hearings Officer for this appeal.

14 On December 2, 1987 Mr. Bouneff notified Mr. Thomas that
15 the hearing on the appeal would be held on December 16, 1987 at
16 9:30 a.m. in his offices. (See Ex. 9.)

17 On December 4, 1987 Mr. Thomas confirmed with Mr. Acker
18 that the hearing had been reset to December 21, 1987 at 9:00 a.m.
19 (See Ex. 10.)

20 The County will be represented at the hearing by Sandra
21 Duffy, Assistant County Counsel. The County estimates that is
22 presentation will take no more than two hours and will consist of
23 testimony from three or four witnesses as well as other evidence.

24 STATEMENT OF FACTS

25 At approximately 3:00 p.m. on April 13, 1987 a neighbor
26 of patient called EMS Central Dispatch (911) and requested aid.

1 The patient's only symptom was shaking which had begun 30 minutes
2 earlier.

3 At 3:04 p.m. licensee's ambulance #61 (AA 61), an
4 advanced life support (ALS) ambulance, was dispatched Code 3 by
5 EMS to NE 7th and Alberta on an unknown problem. [On arrival at
6 3:06 p.m. the Emergency Medical Technicians (EMTs) saw the 36 year
7 old overweight black female patient lying on a bed in a dark
8 room. They found the patient conscious, oriented, excited and
9 shivering, although she denied being cold. Patient denied all
10 symptoms except shivering. The EMTs examined the patient, drew
11 blood, took an EKG and installed a heparin lock. (See Ex. 11.)

12 According to the EMTs the Portland Fire Bureau (PFB) came
13 on the scene and did a patient assessment including a VIS (taking
14 vital signs). (See Ex. 11.) However, PFB indicates it was
15 cancelled as their truck came around the corner at 7th and Alberta
16 at about 3:08 p.m. and that they never saw or assessed the patient
17 and left the scene at 3:11 p.m. (See Ex. 13.)

18 According to the EMTs the patient was then asked to move
19 into the living room (5-8 feet) to allow a more thorough exam with
20 better light. The EMTs prepared to get a stretcher to transport
21 patient to ambulance but she refused and insisted on walking out.
22 She walked out with the EMTs beside her and a friend followed the
23 patient with a chair "in case tremors increased". (See Ex. 13.)

24 The patient's neighbors provide facts which differ with
25 the EMTs on some of these facts. They allege that the EMTs had
26 the patient walk out to the ambulance barefoot and with no robe or

1 coat. The patient's friend was asked to carry the chair at the
2 EMTs' direction "in case she gets too tired". The neighbors
3 allege that only moments earlier the EMTs had used electrical
4 paddles to revive the patient and had injected her with
5 epinephrine. The EMTs deny such procedures took place. (See
6 Ex. 1.)]

7 AA 61 left the scene at 3:23 p.m. At 3:24 p.m. AA 61 was
8 enroute to Providence Hospital with the patient when she began to
9 have a seizure. (See Ex. 14.) EMT Filler had the driver,
10 EMT Hernandez, stop and help position patient for life saving
11 procedures. Two EMTs were needed because of patient's weight.
12 Numerous procedures were implemented. (See Exs. 11, 12a and 12b.)

13 A self-dispatched call internal to licensee was made by
14 AA 61 asking for Code 3 backup. (See Exs. 17 and 18.)

15 At 3:30 p.m. AA 51, also an ALS ambulance, informed EMS
16 that they were enroute to 7th and Alberta to assist AA 61. (See
17 Exs. 17 and 18.)

18 At 3:32 p.m. EMS calls AA dispatch to find out what AA 51
19 is doing. AA 51 explains that they are backing up AA 61. (See
20 Exs. 17 and 18.)

21 Backup AA 51 arrived at AA 61's location and dropped off
22 an EMT from AA 51 who drove the vehicle Code 3 to Emanuel at
23 3:38 p.m. (See Exs. 17 and 18.)

24 At 3:39 p.m. AA 51 is out-of-service because partner is
25 with AA 61. (See Exs. 17 and 18.)

26 At 3:40 p.m. AA 61 arrives at Emanuel. Patient had no

1 pulse and no blood pressure reading and is announced as a "99"
2 upon arrival (dead). According to the death certificate, she was
3 pronounced dead at 4:20 p.m. (See Exs. 15 and 19.)

4 APPLICABLE CODE PROVISIONS AND EMS RULES

5 Multnomah County Code provisions 6.31.190(F) and (G)
6 provide as follows:

7 6.31.190 Prohibited activities. No applicant
8 or licensee, applicant's or licensee's employe or
9 any other person doing business as defined hereunder
10 shall:

11 (F) Fail or refuse to promptly advise the
12 Emergency Medical Services Central Dispatch Office
13 of receipt of a request for emergency medical
14 assistance or when a licensee's ambulance becomes
15 available or non-available to respond to dispatch
16 orders;

17 (G) Respond by ambulance to an emergency call
18 unless so authorized by the Emergency Medical
19 Services Central Dispatch Office or under a
20 provision of this chapter or rule adopted hereunder;

21 EMS Rule 631-390(C) which provides as follows:

22 631-390 Prohibited activities. No applicant or
23 licensee, applicant's or licensee's employee or any
24 other person doing business as defined in MCC 6.31
25 shall:

26 (C) Respond by ambulance to an emergency call
unless so authorized by the Emergency Medical
Services Central Dispatch Office or under MCC 6.31.

27 Additionally, EMS Rules are 631-320(F) and (G) which are
28 potentially relevant, provide as follows:

29 ///

1 631-320 Ambulance Dispatch. The following
2 apply to licensees which operate emergency
ambulances.

3 (F) Standing Authorization to Respond. A
4 licensee shall be deemed to have a standing
5 authorization to respond by ambulance to any
6 emergency call received by the licensee, and may,
accordingly, immediately respond to the call,
provided that:

7 (1) The licensee's dispatcher relays the
8 information required in paragraph (B)¹ of this
9 rule, including the unit number of the ambulance,
and the location from which it is responding, to EMS
Central Dispatch immediately after dispatching the
ambulance. [EMS 3-80, 1/12/81; EMS 5-82, 11/15/82]

10 (2) The call is in the licensee's
11 ambulance service area; and, [EMS 3-80, 1/12/81; EMS
5/82, 11/15/82]

12 (3) The licensee has more than 50% of its
13 ambulances available within its ambulance service
area. [EMS 3-80, 1/12/81; EMS 5-82, 11/15/82]

14 (4) A licensee shall utilize the triage
15 guide adopted under these rules in determining
whether a call requires an emergency response. [EMS
16 3-80, 1/12/81; EMS 5-82, 11/15/82]

17 (5) EMS Central Dispatch may cancel any
18 ambulance dispatched by a licensee under this
standing authorization rule. [EMS 3/80, 1/12/81]

19 _____
20 ¹ (B) Receipt of Emergency Calls. Except as otherwise
21 provided in paragraph (F), upon receipt of a request for
22 emergency medical assistance a licensee shall immediately
relay the following information to EMS Central Dispatch.

- 23 (1) the location of the emergency
24 (2) the nature of the emergency
25 (3) the telephone number of the caller.

26 The above information shall be relayed by telephone
connected directly and exclusively to EMS Central
Dispatch.

1 (G) The provisions of paragraph (F) of this
2 rule shall not apply where an ambulance crew
3 determines that there is a need for one or more
4 additional vehicles at the scene of an emergency.
5 Where such a determination is made, the ambulance
6 crew shall promptly contact EMS Central Dispatch to
7 request the additional vehicles. The crew shall
8 advise EMS Central Dispatch of the number and type
9 of units needed. [EMS 3-80, 1/12/81; EMS 1-81,
10 2/23/81; EMS 3-81, 7/27/81; EMS 5-82, 11/15/82]

11 APPLICATION OF THE FACTS

12 AA 61, while enroute to Providence Hospital Code 1, did a
13 self-dispatch for a Code 3 ambulance as backup. In other words,
14 AA 61 called its ambulance company dispatcher for backup who in
15 turn dispatched AA 51 without notification to EMS dispatch.

16 MCC 6.31.190(F) was violated in two particulars:

17 (1) Failure of AA Ambulance dispatch and/or AA 51 to advise EMS
18 dispatch of the receipt (from AA 61) of a request for emergency
19 medical assistance²; and (2) Failure of AA Ambulance dispatch to
20 advise EMS dispatch that AA 51 was "non-available to respond to
21 dispatch orders".

22 MCC 6.31.190(G) and EMS Rule 631-390(C) were violated
23 when AA 51 responded to an emergency call that was not authorized
24 by the EMS Central Dispatch Office.

25 ² AA's attorney seems to proffer the argument that this rule was
26 not violated because no medical assistance was actually
rendered by AA 51. Of more importance is the request which,
according to EMS and AA tapes was for "Code 3 assistance".
Semantics should not be the name of the game in emergency
services.

1 Additionally, EMS Rule 631-320(B) was violated in that AA
2 Ambulance Dispatch, upon receipt of the request for a backup from
3 AA 61, failed to relay to EMS Central Dispatch the location and
4 nature of the emergency and the telephone number of the caller.
5 In fact, EMS dispatch became aware that AA 51 was out on a call
6 and called AA 51 to find out what was going on.

7 While it is true that EMS Rule 631-320(F) gives a
8 licensee "standing authorization to respond", there are five
9 conditions to that authorization (see page 6, supra). The most
10 important of those provisions is subsection 1 which requires that
11 the information required by EMS Rule 631-320(B) (location and
12 nature of the emergency and the telephone number of the caller)
13 and the unit number of the ambulance and the location from which
14 it is responding, be relayed to EMS Central Dispatch. This
15 information was not relayed; it had to be obtained by EMS Central
16 Dispatch by calling AA 51. The other conditions of the rule were
17 either met, unknown or unnecessary.

18 **REBUTTAL TO LICENSEE'S ANTICIPATED DEFENSE**

19 (1) Licensee states "we believe that EMS Rule 631-390(C)
20 is not applicable to this case." (See Ex. 16.) That rule
21 prohibits a licensee from responding by ambulance to an emergency
22 call unless authorized by the EMS Central Dispatch Office or
23 MCC 6.31. That provision applies by its terms to every licensee
24 or licensee's employee. Licensee has proffered no authority to
25 show otherwise.

26 (2) Licensee believes that EMS Temporary Rule 1-86-A

1 applies to this case. That temporary rule repealed EMS Rule
2 631-320(E) except paragraph A and adopted a new rule in its
3 place. The "relevant" section of the former rule, according to
4 licensee, is subsection (E)(5) which allowed a provider to
5 dispatch a BLS ambulance Code 3 to the emergency. The temporary
6 rule (subsection (A)(4)) authorized a provider to use its
7 ambulance for Code 1 or Code 3 calls until there are only eight
8 ambulances available. However, the rule says "Code 3 approved
9 calls"; the clear implication is authorization from EMS Central
10 Dispatch is required. (See App. 3, pg. 2.) That Temporary Rule
11 was abrogated upon the adoption of EMS Order 2/86 dated
12 December 15, 1986 which created new permanent rules. (See App. 4.)

13 The incident which resulted in this hearing took place
14 April 13, 1987. There were no temporary rules in effect at that
15 time.

16 Licensee indicates that this situation would have been
17 covered by EMS Rule 631-320(E)(5) if Temporary Rule 1-86-A wasn't
18 in place. That EMS rule applies to Basic Life Support (BLS)
19 ambulances of a licensee. Both AA 51 and AA 61 are Advanced Life
20 Support (ALS) ambulances.

21 While it is not clearly articulated, there appears to be
22 a line of argument here that AA 51 should be treated as a BLS
23 ambulance because it only provided BLS functions (acted as a
24 driver not as an EMT IV). That line of reasoning ignores two
25 important facts: (1) AA 51 responded to a request for a Code 3
26 backup -- a service only an ALS ambulance can provide; and (2)

1 AA 51's response took an ALS ambulance out-of-service without
2 notification to EMS Central Dispatch. The confusion which would
3 have occurred had another Code 3 call come into AA 51's service
4 area is obvious and could have resulted in a tragic loss of time
5 and perhaps life.

6 In any event, EMS Rule 631-320(E)(5) also requires the
7 licensee to advise EMS Dispatch of the number of the unit
8 responding, the location of the unit and the location of the
9 emergency. Again, AA 51 had to be contacted by EMS Dispatch to
10 obtain the necessary information. EMS Rule 631-320(E)(5)(c).

11 (3) Licensee also cites EMS Rule 631-320(F) (standing
12 authorization to respond) as authorization to self-dispatch. (See
13 Ex. 16.) As noted above, that rule requires relaying of specific
14 information by licensee to EMS Central Dispatch which did not
15 occur here. EMS Rule 631-320(F)(1).

16 CONCLUSION

17 Licensee has violated Multnomah County ordinances and EMS
18 rules in allowing AA 51 to respond Code 3 to AA 61's request for
19 backup. While it is true that it is not known whether another
20 ambulance was more appropriate to dispatch or whether that could

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1 have made a difference for the patient, the necessity to keep EMS
2 Central Dispatch informed of all ambulance activity is absolutely
3 critical in this life and death business.

4 Respectfully submitted,

5 LAURENCE KRESSEL, COUNTY COUNSEL
6 FOR MULTNOMAH COUNTY, OREGON

7 BY Sandra Duffy
8 Sandra Duffy, OSB 482044
9 Assistant County Counsel
Of Attorneys for Multnomah County

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MULTNOMAH COUNTY OREGON

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H. H. LAZENBY, JR.
PAUL G. MACKAY
MARK B. WILLIAMS

TO: Jane McGarvin
Clerk of the Board

FROM: Sandra Duffy *Sandy*
Assistant County Counsel

DATE: July 27, 1988

RE: Appeal Hearing on August 2, 1988 on AA
Ambulance Violation Final Order

Enclosed are the following documents for the Board of County Commissioners in preparation for the above referenced hearing:

1. Proposed final order.
2. AA Ambulance's (AA) exceptions to the proposed final order.
3. Multnomah County Emergency Medical Services (EMS) objections to AA's exceptions.
4. EMS hearing memorandum.
5. AA letter hearing brief.

2040R/sh

Enclosures

cc: Chris Thomas

BOARD OF
COUNTY COMMISSIONERS
1988 JUL 29 PM 4:47
MULTNOMAH COUNTY
OREGON

1 In the Matter of)
AA Ambulance)
2 Run #691/208769A)
3 _____)

PROPOSED FINAL ORDER

4 This matter came on for hearing on December 21, 1987
5 before Hearings Officer B. B. Bouneff. AA Ambulance was
6 represented by its attorney, Christopher P. Thomas, and Multnomah
7 County Emergency Medical Services was represented by its
8 attorney, Sandra Duffy, Assistant County Counsel. After hearing
9 testimony of witnesses; reviewing documentary evidence including
10 tape recordings; reviewing legal memoranda of counsel; hearing
11 argument of counsel; and, considering the relevant portions of
12 the Multnomah County Code and the EMS Rules, the Hearings Officer
13 found, pursuant to MCC 6.31.180(G) and in accordance with
14 Attorney General's Model Rules of Procedure Rule 137-03-070, as
15 follows:

16 1. EVIDENCE.

17 Exhibits 1, 2, 7, 8, 9, 10, 11, 12, 14, 16, 17,
18 18, 19, 20, 21 and 22 are admitted into evidence. Exhibits 3, 4,
19 5, 6, 13 and 15 are not admitted into evidence.

20 2. FINDINGS OF FACT.

21 On April 13, 1987 AA Ambulance Unit Number 61
22 (AA61), an advanced life support (ALS) ambulance, left the scene
23 of an emergency response at 3:23 p.m. At 3:24 AA61 was en route
24 to Providence Hospital with the patient when she began to have a
25 seizure. Emergency Medical Technician (EMT) Filler had the

26 /// /// ///

1 driver, EMT Hernandez, stop and help position the patient for
2 life saving procedures.

3 AA61 called the AA Ambulance dispatcher and asked
4 for a backup car (an ALS ambulance with two Emergency Medical
5 Technicians, Class IV on board). AA61 testified they called the
6 AA dispatcher rather than Emergency Medical Services (EMS)
7 Central Dispatcher because the radio transmitting to AA was more
8 accessible. Evidence indicated the AA radio was in the rear
9 compartment whereas the EMS radio was in the front of the
10 vehicle. AA Dispatch sent AA51 to meet AA61. At 3:30 p.m. AA51,
11 also an ALS ambulance, informed EMS Dispatch Office that they
12 were en route to N.E. 7th and Alberta to assist AA61. AA51
13 explained it was backing up AA61. Evidence indicates that EMS
14 Dispatch was unsure as to what was occurring and at 3:32 p.m.,
15 EMS Dispatch Office telephoned AA Dispatch to find out what AA51
16 was doing. AA51 arrived at AA61's location and dropped off an
17 EMT from AA51 who drove AA61 Code 3 to Emanuel Hospital at 3:38
18 p.m.

19 At 3:39 p.m. AA51 informed EMS Dispatch Office
20 that it was out-of-service because his partner was with AA61.
21 Evidence was introduced to indicate that the 7th and Alberta
22 location was within AA Ambulance's service area. Undisputed
23 evidence indicated that when AA dispatched AA51, there were more
24 than eight ALS ambulances available for call in Multnomah County.
25 Further evidence indicated that at the time AA had more than 50%

26 /// /// ///

1 of its ALS ambulances available within its service area, and AA's
2 ambulances served both as ALS and as Basic Life Support (BLS)
3 ambulances.

4 I believe the crux of the matter is whether or not
5 the EMS Rules require specifically the crew of the ambulance to
6 request the EMS dispatch office for an additional vehicle or
7 whether such request could be from AA Ambulance's dispatcher or
8 other agent. It is also crucial as to whether or not such
9 dispatch of additional vehicle could be on the order of other
10 agencies other than the EMS dispatcher.

11 There was conflicting evidence regarding the radio
12 call from the crew of AA61 for backup. AA Ambulance stated that
13 the crew of AA61 called for a driver. The County alleged that
14 the request was for a "a car Code 3" (an ALS ambulance with two
15 Emergency Medical Technicians, Class IV, on board). While the
16 three tape recordings are of terrible quality, all three agree on
17 the salient points. I find that all three tapes indicate that
18 the request was for a car Code 3, and not for a driver.

19 However, I also find that the AA dispatcher and
20 the crew of AA51 (the backup ALS ambulance which responded to
21 AA61's request) did advise the EMS Central Dispatch office of the
22 request on the part of AA61 and the status of the two vehicles.

23 3. CONCLUSIONS OF LAW.

24 a. AA Ambulance did not assert that it had the
25 authorization of the Emergency Medical Services Dispatch Office
26 prior to dispatching AA51 to backup AA61. It did assert,

1 however, that other provisions of the County Code and/or the EMS
2 Rules allowed such a dispatch. I find that AA Ambulance violated
3 EMS Rule 6.31.390(C)¹ by responding by ambulance to an emergency
4 call without the authorization of Emergency Medical Services
5 Dispatch Office or under any other provision of MCC 6.31.

6 b. I find that AA Ambulance violated Multnomah
7 County Code 6.31.190(G)² by responding by ambulance to an
8 emergency call without the authorization of Emergency Services
9 Dispatch Office or under the authority of any other provisions of
10 this ordinance or EMS Rule.

11 /// /// ///

12 /// /// ///

13 /// /// ///

14 1 EMS Rule 631-390(C) provides: "Prohibited activities.
15 No applicant or licensee, applicant's or licensee's
16 employee or any other person doing business as defined
in MCC 6.31 shall:

17 * * *

18 (C) Respond by ambulance to an emergency call unless
19 so authorized by the Emergency Medical Services
Central Dispatch Office or under MCC 6.31."

20 2 MCC 6.31.190(G) provides: "Prohibited activities. No
21 applicant or licensee, applicant's or licensee's
22 employee or any other person doing business as defined
hereunder shall:

23 * * *

24 (G) Respond by ambulance to an emergency call unless
25 so authorized by the Emergency Medical Services
26 Central Dispatch Office or under a provision of
this ordinance or rule adopted hereunder."

1 c. I find that AA Ambulance did not violate MCC
2 6.31.190(F)³ because the AA dispatcher and crew of AA51 advised
3 the EMS Central Dispatch Office of the request on the part of
4 AA61 and the status of the two vehicles.

5 d. I find that EMS Rule 631-320(F) does not
6 apply in this situation.⁴

7
8 ³ MCC 6.31.190(F) provides: "Prohibited activities. No
9 applicant or licensee, applicant's or licensee's
10 employee or any other person doing business as defined
11 hereunder shall:

12 * * *

13 (F) Fail or refuse to promptly advise the Emergency
14 Medical Services Central Dispatch Office of
15 receipt of a request for emergency medical
16 assistance or when a licensee's ambulance becomes
17 available or non-available to respond to dispatch
18 order.

19
20 ⁴ EMS Rule 631-230(F) and (G) provide:

21 "(F) A licensee shall be deemed to have a standing
22 authorization to respond by ambulance to an emergency
23 call received by the licensee, and may, accordingly,
24 immediately respond to the call, provided that:

25 "(1) The licensee's dispatcher relays the
26 information required in paragraph (B) of this rule
[location and nature of emergency and telephone
number of caller], including the unit number of
the ambulance, and the location from which it is
responding, to EMS Central Dispatch immediately
after dispatching the ambulance.

"(2) The call is in the licensee's ambulance
service area; and,

"(3) The licensee has more than 50% of its
ambulances available within its ambulance service
area.

"(4) A licensee shall utilize the triage guide

1 e. I find that during the pertinent times
2 herein, AA did not take AA51 out of service.⁵

3 adopted under these rules in determining whether a
4 call requires an emergency response.

5 "(5) EMS Central Dispatch may cancel any
6 ambulance dispatched by a licensee under this
7 standing authorization rule."

8 "(G) The provisions of paragraph (F) of this rule shall
9 not apply where an ambulance crew determines that
10 there is a need for one or more additional
11 vehicles at the scene of an emergency. Where such
12 a determination is made, the ambulance crew shall
13 promptly contact EMS Central Dispatch to request
14 the additional vehicles. The crew shall advise
15 EMS Central Dispatch of the number and types of
16 units needed."

17 5 EMS Rule 631-316, 631-314, and 631-320(E) (5) provide:

18 "631-316 A licensee's ambulance may be taken out of
19 service to the EMS Central Dispatch system if there are
20 more than eight licensed ALS-staffed ambulances
21 available for calls in Multnomah County. . ."

22 "631-314 The Crew of each vehicle shall promptly
23 inform EMS Central Dispatch of the following changes in
24 status by radio:

25 ". . .

26 "(I) Out of service (no longer available to respond to
dispatch orders from EMS Central Dispatch.)"

"631-320(E) (5) Licensee's BLS ambulance may respond
Code-3 to the scene of an emergency under the following
conditions:

"(a) An ALS ambulance requests addition manpower
at the scene of an emergency and the ALS ambulance
transports the emergency patients; or

"(b) . . .

"(c) Licensee advises EMS Dispatch by radio or
telephone of the number of the unit responding,

1 4. ORDER.

2 Based upon my finding that AA Ambulance did
3 violate a County Code provision and an EMS Rule, I find that the
4 fine of \$250.00 on the part of the Director of Emergency Medical
5 Services (See Exhibit 7) is appropriate and order that it be paid
6 by licensee.

7 5. APPEAL RIGHTS.

8 a. Final Order. Pursuant to MCC 6.31.180(J),
9 the Board of County Commissioners (BCC) may accept the proposed
10 final order, modify it or reject it and prepare, or cause a
11 person designated by it to prepare a final order.

12 b. Reconsideration. MCC 6.31.184 provides that
13 the BCC may reconsider a final order upon the filing of a
14 petition for reconsideration within 15 days after issuance of the
15 order. If no action is taken by the BCC within 15 days after the
16 petition is filed, the petition shall be deemed denied. If the
17 petition is allowed by vote of the BCC, a hearing on the
18 reconsideration shall be held and an amended order shall be
19 issued.

20 c. Judicial Review. Review of the action of the
21 BCC shall be taken solely and exclusively by writ of review in
22 the manner set forth in ORS 34.010 to 34.100.

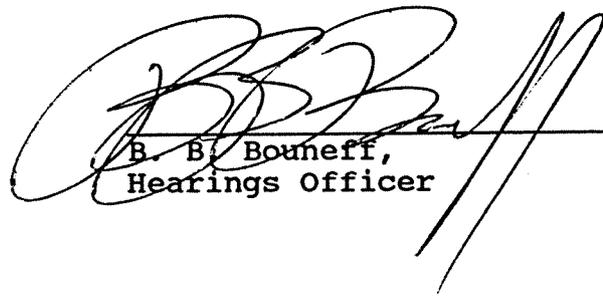
23 /// /// ///

24 _____

25 the location from which the unit is responding and
26 the location of the emergency."

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THIS PROPOSED FINAL ORDER IS ADOPTED this 15th day
of June, 1988.



B. B. Bouneff,
Hearings Officer

RECEIVED

JUL 25 1988

CERTIFIED A TRUE COPY

CT

1 COUNTY COUNSEL FOR BEFORE THE MULTNOMAH COUNTY COMMISSION
2 MULTNOMAH COUNTY, ORE.

3 In the Matter of AA Ambulance)
4)
5) EXCEPTIONS OF AA AMBULANCE
6) TO PROPOSED FINAL ORDER
7)

8 AA Ambulance submits the following exceptions to the
9 Proposed Final Order in this matter:

10 1. Findings of Fact. The Findings of Fact, on page 3,
11 lines 11 through 18, describe one factual issue in this
12 proceeding as whether the crew of AA Ambulance's vehicle number
13 61 called for another ALS ambulance or for a driver. The
14 Proposed Final Order states that AA61 called for "a car Code 3"
15 (Code 3 means as fast as possible with siren sounding). AA
16 Ambulance agrees that this was the language used. AA Ambulance
17 contends, however, that what the crew of AA61 intended by this
18 was to get a driver who would drive AA61 to the hospital while
19 the crew tended the patient. The record clearly establishes that
20 this is what was intended, it is what actually occurred, and it
21 has not been disputed that this is what was intended. Thus at
22 the end of line 18 on page 3, it would be appropriate to add,
23 "The intention of the AA61 crew was to get a driver to AA61 as
24 quickly as possible."

25 2. Conclusions of Law. The Hearings Officer found that AA
26 Ambulance violated EMS Rule 6.31.390(C). That rule prohibits an
ambulance provider from responding by ambulance to an emergency
call unless so authorized by EMS Central Dispatch or by Multnomah
County Code Chapter 6.31.

1 The Hearings Officer also found that AA Ambulance violated
2 MCC 6.31.190(G). That code section prohibits an ambulance
3 provider from responding by ambulance to an emergency call unless
4 so authorized by EMS Central Dispatch or by MCC Chapter 6.31 or a
5 rule adopted thereunder.

6 The EMS rule and code section supposedly violated by AA
7 Ambulance are essentially the same. The issue in this proceeding
8 is whether AA Ambulance vehicle 61 had the authority to call AA's
9 dispatcher for "a car Code 3" in order to get a driver to the
10 scene as soon as possible. If any EMS rule authorizes this, then
11 AA Ambulance did not commit a violation. If no EMS rule
12 authorizes this, then AA61 should have called EMS Central
13 Dispatch rather than AA's dispatcher and, by failing to do so,
14 committed a violation.

15 AA Ambulance maintains that AA61 had authority under an EMS
16 rule to call AA's dispatcher for "a car Code 3" in order to get a
17 driver to the scene as soon as possible. The Proposed Final
18 Order concludes to the contrary. AA Ambulance therefore takes
19 exception to the conclusions of the Proposed Final Order.

20 EMS Rule 631-320(F). First, AA Ambulance maintains that it
21 had authority to act as it did under EMS Rule 631-320(F). That
22 rule authorizes an ambulance provider to respond immediately to
23 an emergency call from a licensee if:

- 24 (1) The provider's dispatcher relays certain information to
25 EMS Central Dispatch immediately after dispatching the
26 ambulance. Here, the Hearings Officer found that AA51

1 notified EMS Central Dispatch that it was en route to
2 NE 7th and Alberta to back up AA61 and subsequently
3 notified EMS that it was out of service because one
4 paramedic was in AA61. The applicable provisions of
5 this requirement were met.

6 (2) The call is in the provider's service area. Here, the
7 Hearings Officer found that the evidence was that the
8 call was in AA's service area. This requirement was
9 met.

10 (3) The licensee has more than 50% of its ambulances
11 available within its ambulance service area. Here, the
12 Hearings Officer found that the evidence was that AA
13 Ambulance had more than 50% of its ambulances available
14 within its service area. This requirement was met.

15 (4) The licensee uses the triage guide to determine whether
16 the call needs an emergency response. Here, the triage
17 guide was not applicable, since the need was for a
18 driver for a patient who already was the subject of a
19 valid call. This requirement was not applicable.

20 In other words, Rule 631-320(F) appears to authorize AA
21 Ambulance's action in this case. There is an exception, however,
22 in Rule 631-320(G), which says that the preceding rule does not
23 apply where an ambulance crew determines that there is a need for
24 one or more additional vehicles at the scene of an emergency.
25 The purpose of this exception is to give EMS Central Dispatch
26 control over the dispatching of ambulances to a multiple casualty

1 emergency. Here, there was not a multiple casualty emergency.
2 Rather, there was a need for another driver. The exception
3 therefore does not apply. Thus, with the exception being
4 inapplicable, AA Ambulance's action in this case was authorized
5 by EMS Rule 631-320(F).

6 Notwithstanding this, for some unexplained reason, the
7 Hearings Officer concluded that Rule 631-320(F) "does not apply
8 in this situation." AA Ambulance can imagine only two possible
9 thoughts the Hearings Officer might have had. He might have
10 concluded the rule does not apply because the call was not an
11 emergency call. If that is the case, however, there was no
12 violation because the two supposed violations only can occur if
13 there is an unauthorized response to "an emergency call." The
14 other possibility is that the Hearings Officer believed that the
15 "multiple casualty" exception applied to this case. If so, his
16 legal conclusion was incorrect.

17 EMS Rule 631-316. This rule authorizes a licensee to take
18 an ambulance out of service to EMS Central Dispatch if there are
19 more than eight ALS-staffed ambulances available to the system.
20 Here, the Hearings Officer found that the evidence was that there
21 were more than eight ALS ambulances available to the system. EMS
22 Rule 631-314 requires the crew of a vehicle to inform EMS Central
23 Dispatch promptly by radio if it goes out of service so that it
24 no longer is able to respond to EMS dispatch orders. Here, the
25 Hearings Officer found that the crew of AA51 did notify EMS
26

1 Central Dispatch that it was proceeding to back up AA61. Thus AA
2 Ambulance appears to have authority for what it did.

3 Once an ALS ambulance is taken out of service, it can be
4 treated as a BLS ambulance. The Hearings Officer found that the
5 evidence was that AA's ambulances serve as both ALS and BLS
6 ambulances. EMS Rule 631-320(E)(5) authorizes a provider to
7 dispatch a BLS ambulance Code 3 to the scene of an emergency at
8 the request of an ALS ambulance for additional manpower if the
9 ALS ambulance transports emergency patients and if the provider
10 advises EMS Central Dispatch of certain information. Here, AA61
11 requested a car Code 3 in order to get a driver, AA61 transported
12 the patient, and AA Ambulance gave the appropriate information to
13 EMS Central Dispatch.

14 Here too, however, for some unexplained reason, the Hearings
15 Officer found that AA Ambulance did not take AA51 out of service.
16 This is strange because AA51 clearly was not available to EMS
17 Central Dispatch and everyone knew it. Here too, the Hearings
18 officer's conclusion was incorrect.

19 3. Penalty. The EMS Office imposed the maximum fine on AA
20 Ambulance (\$250), and the Hearings Officer upheld it. Even if
21 there was a violation, which AA Ambulance vigorously disputes,
22 the violation at most was the use of the wrong words and should
23 not have been pursued much less subjected to the maximum fine.

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For the reasons stated, the Hearings Officer's Proposed
Final Order should be rejected and an order entered exonerating
AA Ambulance.

Respectfully submitted,

Isl Christopher Thomas
Christopher P. Thomas

BEFORE THE BOARD OF COUNTY COMMISSIONERS

In the Matter of AA Ambulance) OBJECTIONS TO AA AMBULANCE'S
Run #691/208769A) EXCEPTIONS TO PROPOSED
) FINAL ORDER

EMS objects to AA Ambulance's (AA) Exceptions to the Proposed Final Order of hearings officer B. B. Bouneff as follows:

1. Findings of Fact. AA requests the addition of the following language to the proposed order: "The intention of the AA 61 crew was to get a driver to AA 61 as quickly as possible." However, AA agrees that AA 61 called for "a car code 3". The hearings officer's findings are based on what actually occurred, not on what was intended. The proposed language should not be added.

2. Conclusions of Law. The Proposed Final Order concludes that AA Ambulance Number 61 (AA/61) did not have authority under any EMS Rule to call AA's dispatcher for a "car code 3" in order to have an Emergency Medical Technician (EMT) meet AA 51 and drive it to the hospital. EMS Rule 6.31.390(C) and MCC 6.31.190(G) prohibit an ambulance driver from responding by ambulance to an emergency call unless authorized by EMS central dispatch (911).

a) Rule 631-320(F). AA asserts that EMS Rule 631-320(F) gives it the authority to act as it did. It purports to be mystified as to why the hearings officer concluded that the Rule did not apply. On page 2 of its

Exceptions, AA paraphrases the requirements of EMS Rule 631-320(F) as follows:

[EMS Rule 631-320(F)] authorizes an ambulance provider to respond immediately to an emergency call for a licensee if:

- (1) The provider's dispatcher relays certain information to EMS Central Dispatch immediately after dispatching the ambulance. Here the hearings officer found that AA 51 notified EMS Central Dispatch that it was enroute to NE 7th and Alberta to back up AA 61 and subsequently notified EMS that it was out of service because one paramedic was in AA 61. The applicable provisions of this requirement were met. (Emphasis added.)

It is the above-quoted "certain information" that is critical to the analysis of the applicability of the Rule. What EMS Rule 631-320(F)(1) actually requires is:

631-320 Ambulance Dispatch. The following apply to licensees which operate emergency ambulances.

(F) Standing Authorization to Respond. A licensee shall be deemed to have a standing authorization to respond by ambulance to any emergency call received by the licensee, and may, accordingly, immediately respond to the call, provided that:

- (1) The licensee's dispatcher relays the information required in paragraph (B) of this rule, including the unit number of the ambulance, and the location from which it is responding, to EMS Central Dispatch immediately after dispatching the ambulance.

And the information required in paragraph (B) of the rule is:

(B) Receipt of Emergency Calls. Except as otherwise provided in paragraph (F), upon

receipt of a request for emergency medical assistance a licensee shall immediately relay the following information to EMS Central Dispatch.

- (1) the location of the emergency
- (2) the nature of the emergency
- (3) the telephone number of the caller.

The above information shall be relayed by telephone connected directly and exclusively to EMS Central Dispatch.

The required information (location and nature of the emergency, the telephone number of the caller, the unit number of the ambulance and the location from which it is responding) was not relayed to EMS Central Dispatch; it had to be obtained by EMS Central Dispatch by calling AA 51. (See Multnomah County's Appeal Hearing Memorandum.)

AA Ambulance "can imagine only two possible thoughts the Hearings Officer might have had" to determine that Rule 631-320(f) does not apply. First, that he concluded that it was not an emergency call, or second, that the "multiple casualty exception" applied to this case. There are no facts, or legal conclusions by the hearings officer which support these theories.

It is quite clear that EMS Rule 631-320(f) did not apply because the information required under that rule, which would authorize AA's actions, was not relayed by the proper party to the property party.

b) EMS Rule 631-316; 631-314 and 631-320(E)(5). AA alleges that it took ambulance AA 51 "out of

service" and therefore it could respond as a Basic Life Support (BLS) ambulance Code 3 to an emergency as backup for additional manpower to AA 61. Joe Acker, EMS Director, testified at the hearing that an Advance Life Support (ALS) ambulance is "out of service" if more than eight ALS ambulances are available, and a request is made to "go out of service". The Hearings Officer found that AA 51 was not "out of service" because it had never taken itself out of service with EMS Dispatch. AA 51 responded to the "car Code 3" call as an ALS ambulance; it did not know its purpose was to deliver a driver for AA 61. Because AA 51 was not "out of service", EMS Rules 631-316, 631-314 and 631-320(E)(5) do not apply and do not authorize the actions taken by AA 51.

3. Penalty. AA objects to the maximum fine of \$250 imposed by the hearings officer. The purpose of the fine is to deter similar violations in the future. AA asserts that AA 61 used the ambulance phone to call AA Dispatch because it was closer and that it intended to call for a driver only. The failure to contact EMS Dispatch left EMS Dispatch confused as to what AA 51 was doing and made an ALS ambulance unavailable for another emergency call. The minutes which are lost because of confusion can cost the life of a patient who does not get medical care as quickly as they should. In light of the high stakes, a \$250 fine is a small deterrent.

4. Conclusion

Multnomah County Emergency medical Services respectfully request that the Board adopt the Proposed Final Order of the Hearings Officer as submitted.

DATED this 1st day of August, 1988.

Respectfully submitted,

LAURENCE KRESSEL, COUNTY COUNSEL
FOR MULTNOMAH COUNTY, OREGON

By Sandra Duffy
Sandra Duffy
Assistant County Counsel

2034R/dm

CHRISTOPHER P. THOMAS

ATTORNEY AT LAW

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PORTLAND, OREGON 97201

TELEPHONE (503) 227-1116

December 18, 1987

Mr. B.B. Bouneff
Bouneff, Chally & Marshall
The Logus Building
529 SE Grand Avenue
Portland, OR 97214-2276

Subject: EMS - AA Ambulance Appeal Request

Dear Mr. Bouneff:

This letter will constitute AA Ambulance's hearing brief in this matter.

I. FACTS

AA Ambulance believes that the following facts are undisputed:

On April 13, 1987, AA Ambulance vehicle 61 was transporting a patient to Providence Hospital, having been dispatched by Emergency Medcial Services Central Dispatch. There were two paramedics in the ambulance, one attending the patient and one driving. During transport, the patient began having seizures. The driver stopped the ambulance to assist the attending paramedic. Within a very short time, the patient went into cardiac arrest, and the driver, being unable to leave the patient, radioed to AA Ambulance to send a driver. The driver radioed AA Ambulance rather than EMS Central Dispatch because the AA radio was more accessible, being in the rear compartment of the ambulance, whereas the EMS radio was less accessible, in the front compartment. AA Ambulance sent its vehicle 51 "Code 3", in other words with lights and siren operating, to meet AA 61. AA 51 had been at Emanuel Hospital. When AA dispatched AA 51 to meet AA 61, there were more than eight Advanced Life Support staffed ambulances available for calls in Multnomah County. In addition, at the time of the dispatch AA had more than 50% of its ambulances available within its service area.

AA 51 had two paramedics. AA 51 met AA 61 at NE 7th and Alberta, which is in AA Ambulance's service area. While en route to 7th and Alberta, AA 51 radioed in to EMS Central Dispatch that it was on call. AA 51 also was in communication with the AA dispatcher. In addition, the AA dispatcher and EMS Central Dispatch were in communication. The text of the conversations, reconstructed from EMS and AA tapes, is approximately as follows:

(1523) (Time of Day)

61 (To AA Dispatch): 61.

AA Dispatch (To 61): 61.

61 (To AA Dispatch): We're Code 1 to Providence
25.4. (Mileage)

AA Dispatch: At 1524.

61 (To EMS Dispatch): 61. We're Code 1 to Providence.

EMS Dispatch (To 61): 61. 1524.

(1528)

61 (To AA Dispatch): We're stopping for a short while
at 7th and Alberta.

AA Dispatch (To 61): 1528.

AA Dispatch (To?): Time presently is 1529, 4/13/87...
Garbled...down the street...

(1530)

61 (To AA Dispatch): 61.

AA Dispatch (To 61). Go ahead.61.

61 (To AA Dispatch): 61 arrived...You got any cars in the
area? We need a Code 3 back-up at 7th
and Alberta.

AA Dispatch (To 61): Copy.

AA Dispatch (To 51): 51.

AA Dispatch (To 61): 61?

AA Dispatch (To 51): 51.

51 (To AA Dispatch): 51.

AA Dispatch (To 51): Stand by one [minute,] 51.

AA Dispatch (To 61): 61?

AA Dispatch (To 51): 51, would you advise EMS that 61 went through us to ask for a Code 3 backup at 7th & Alberta, and you're responding.

51 (To AA Dispatch): Did you want us to go on that?

AA Dispatch (To 51): Yes, sir.

51 (To AA Dispatch): Okay, we're en route... en route to the car.

51 (To AA Dispatch): Does anyone know if seizure prior to call or after?

61 (To AA Dispatch): Garbled.

51 (To AA Dispatch): Go ahead.

AA Dispatch (To ?): Better get them back in district.

EMS Dispatch (To 51): Last unit, say again?

51 (To EMS Dispatch): 51.

EMS Dispatch (To 51): 51, go ahead.

51 (To EMS Dispatch): We're clear of Emanuel, we'll be going to ..(Garbled)....We're on that call, 7th & Alberta.

EMS Dispatch (To 51): 51, I copied you're clear of Emanuel, but I didn't get the rest.

51 (To EMS Dispatch): 51's en route, 7th & Alberta.

AA Dispatch (To 51): Say again 51.

Some garbled talk here.

51 (To AA Dispatch): We'll be clear of Emanuel, but I didn't get the rest.

51 (To EMS Dispatch): We're on that call to 7th & Alberta.

51 (To AA Dispatch): We're en route to 7th & Alberta.

AA Dispatch (To 51): Copy, at 1528, you're backing up 61,
unknown what they've got.

EMS Dispatch (To 51): At 1531, backing up 61 on 7th &
Alberta. Is that a Code 1?

51 (To EMS Dispatch): A Code-3 backup.

EMS Dispatch (To 51): 7th & Alberta, copy.

1532

(Phone rings at AA Dispatch)

AA Dispatch (To EMS Dispatch): AA Ambulance.

EMS Dispatch (To AA Dispatch): Hello, this is EMS.

AA Dispatch (To EMS Dispatch): Hi, EMS.

EMS Dispatch (To AA Dispatch): I'm confused by 51.

AA Dispatch (To EMS Dispatch): Well, 61 requested Code 3
backup at 7th & Alberta with
the patient they were
transporting.

EMS Dispatch (To AA Dispatch): With the patient they were
transporting?

AA Dispatch (To EMS Dispatch): Yes, so 51's on their way
from Emanuel to assist them.

EMS Dispatch (To AA Dispatch): And 61 sort of stopped at 7th
& Alberta.

AA Dispatch (To EMS Dispatch): Yes.

EMS Dispatch (To AA Dispatch): Okay, that makes more sense.

AA Dispatch (To EMS Dispatch): Yeah. Don't feel too bad. I
felt the same way you did.

EMS Dispatch (To AA Dispatch): There is....There is a
disturbance of some kind at
9th & Alberta.

AA Dispatch (To EMS Dispatch): Oh, goodie.

EMS Dispatch (To AA Dispatch): Oh, a large gathering of
kids, and it is all

anonymous, but somebody is supposed to have a knife and somebody's supposed to have a handgun.

AA Dispatch (To EMS Dispatch): Oh, jeez. Okay, thanks.

EMS Dispatch (TO AA Dispatch): Okay.

AA Dispatch (To EMS Dispatch): Thanks.

EMS Dispatch (Operator conversations): 1532. They stopped at 7th & Alberta and asked for a Code 3 backup ambulance. Well, that's the closest thing I could figure out. Well, maybe a seizure, but...I don't know why, it must have gone to shit after they started to transport.

1533

AA Dispatch (To 51): 51.

51 (To AA Dispatch): 51.

AA Dispatch (To 51): There is a disturbance call at 9th & Alberta, weapons involved. You might be aware of that little situation.

51 (To AA Dispatch): 10-4, we're about, well they're right in front of us.

AA Dispatch (To 51): 10-4. ..

1535

51 (To AA Dispatch): 51's there.

AA Dispatch (To 51): Copy.

61 (To EMS Dispatch): 61 calling.

EMS Dispatch (To 61): 61.

61 (To EMS Dispatch): Yeah, we'll be 10-62 to Emanuel Code 3 with a Code 99.

EMS Dispatch (To 61): 61, at 1538.

EMS Dispatch (Operator conversations): Code 3 to Emanuel now with a 99. So she died on them.

51 (To EMS Dispatch): Yeah, I'm going to be 10-7. I'm gonna follow my partner in, he's with 61, he's riding to Emanuel.

EMS Dispatch (Operator Conversations): At 1539. Now half of 51's riding in the ambulance, probably pumping on her. Well, he went Code 1 originally, maybe the Rescue just went home.

61 (To EMS Dispatch): 61, 10-64

EMS Dispatch (To 61): 61, 1540.

EMS Dispatch (Operator conversation): She was foaming at the mouth. They transport Code 1 to the hospital, all of a sudden 51 clears Emanuel, says "we're going." Weird.

During the course of these events, one paramedic from AA 51 drove AA 61 to Providence Hospital Code 3, while the other AA 51 paramedic followed in AA 51. The total time AA 51 was involved in the call was 15 minutes.

AA Ambulances maintains an Advanced Life Support (ALS) capacity on all its ambulances and thus uses the same ambulances and crews for both ALS and Basic Life Support (BLS) services. BLS services are a lower level of services than ALS services.

II. REGULATIONS

The relevant County Code and EMS Rule provisions are as follows.

1. General. County Code Sections 6.31.190(F) and (G) and EMS Rules 631-390(B) and (C) are essentially the same. The County Code provisions state:

"No...licensee...or licensee's employees...shall:

"(F) Fail or refuse to promptly advise Emergency Medical Services Central Dispatch Office of receipt of a request for emergency assistance or when a licensee's ambulance becomes available or non-available to respond to dispatch orders;

"(G) Respond by ambulance to an emergency call unless so authorized by the Emergency Medical Services Central Dispatch Office or under a provision of this chapter or rule adopted thereunder."

EMS Rules 631-390(B) and (C) contain nearly identical language.

2. Authorized Response. Several EMS Rules authorize a direct response to calls, rather than routing the calls to EMS Central Dispatch.

EMS Rule 631-320(E) (5) states:

"Licensee's BLS ambulance may respond Code-3 to the scene of an emergency under the following conditions:

"(a) An ALS ambulance requests additional manpower at the scene of an emergency and the ALS ambulance transports the emergency patients; or

"(b)...

"(c) Licensee advises EMS Dispatch by radio or telephone of the number of the unit responding, the location from which the unit is responding and the location of the emergency."

EMS Rule 631-320(F) states:

" A licensee shall be deemed to have a standing authorization to respond by ambulance to an emergency call received by the licensee, and may, accordingly, immediately respond to the call, provided that:

"(1) The licensee's dispatcher relays the information required in paragraph (B) of this rule [location and nature of emergency and telephone number of caller], including the unit number of the ambulance, and the location from which it is responding, to EMS Central Dispatch immediately after dispatching the ambulance.

"(2) The call is in the licensee's ambulance service area; and,

"(3) The licensee has more than 50% of its ambulances available within its ambulance service area.

"(4) A licensee shall utilize the triage guide adopted under these rules in determining whether a call requires an emergency response.

"(5) EMS Central Dispatch may cancel any ambulance dispatched by a licensee under this standing authorization rule."

EMS Rule 631-320(G), imposing a limitation on a provider's authority under Rule 631-320(F), states:

"The provisions of paragraph (F) of this rule shall not apply where an ambulance crew determines that there is a need for one or more additional vehicles at the scene of an emergency. Where such a determination is made, the ambulance crew shall promptly contact EMS Central Dispatch to request the additional vehicles. The crew shall advise EMS Central Dispatch of the number and type of units needed."

Finally, EMS Rule 631-316 authorizes an ambulance company to take vehicles out of service under certain circumstances. It states:

"A licensee's ambulance may be taken out of service to the EMS Central Dispatch system if there are more than eight licensed ALS-staffed ambulances available for calls in Multnomah County...."

III. ARGUMENT

The EMS Director found that AA Ambulance violated Multnomah County Code Sections 6.31.190(F) and (G) and EMS Rule 631-390(C) by not notifying EMS Central Dispatch that AA was responding to a Code 3 call and by responding to a Code 3 call without EMS Dispatch approval.

AA Ambulance believes that its actions, in providing a driver in response to AA 61's request, without routing the request through EMS Central Dispatch, were authorized by the EMS rules.

1. MCC 6.31.190(G) and EMS Rule 631-390(C). These provisions require that all emergency responses be dispatched by EMS Central Dispatch unless a response is otherwise authorized by EMS rules. The question thus is whether the EMS rules authorized AA Ambulance's actions here.

2. Rule 631-320(E)(5). This rule authorizes AA Ambulance to send a BLS ambulance Code 3 to an emergency if an ALS ambulance requests additional manpower at the emergency scene and if the ALS ambulance transports the emergency patient. Since AA Ambulance uses the same vehicles and crews as both ALS and BLS vehicles, AA had the authority under this rule, treating AA 51 as a BLS ambulance, to respond to AA 61's request for a driver Code 3. Furthermore, AA Ambulance had the authority under EMS Rule 631-316 to treat AA 51 as a BLS vehicle since the system at the time had more than eight licensed ALS-staffed ambulances available for calls in Multnomah County. AA 61, an ALS vehicle, transported the patient. AA did have the responsibility under subsection (c) of this rule to notify EMS Dispatch by radio or telephone that AA 51 was responding, the location from which it was responding, and the location of the emergency. AA met this notification requirement.

Thus AA Ambulance's action was authorized by Rule 631-320(E)(5) and did not violate MCC 6.31.190(G) or EMS Rule 631-390(C).

3. Rule 631-320(F). This rule gives AA Ambulance standing authority to respond to an emergency call in its ambulance service area, which was the case here, provided AA had more than 50% of its ambulances available within its service area, which also was the case here. AA was required to use the triage guide to determine whether an emergency response was required, but the guide did not address this situation. AA also had the responsibility to notify EMS Dispatch that AA 51 was responding, who requested the dispatch, the location from which AA 51 was responding, and the location and nature of the emergency. AA met the notification requirement.

EMS Rule 631-320(G) does limit Rule 631-320(F) by stating that (F) is not applicable where an ambulance crew determines that additional vehicles are needed at the scene of an emergency. Rule 631-320(G) has to do with mass casualty incidents where more than one ambulance is needed at the scene of an emergency. This limitation, however, is not applicable here. AA 61 did not determine that another ambulance was needed. AA 61 simply needed a driver and called for one.

Thus AA Ambulance's action also was authorized by Rule 631-320(F) and did not violate MCC 6.31.190(G) or EMS Rule 631-390(C).

4. Rule 631-316. This rule authorized AA Ambulance to take AA 51 out of service to the EMS Central Dispatch system and to use AA 51 to transport a driver to AA 61. Thus for this reason also, AA's action did not violate MCC 6.31.190(G) or EMS Rule 631-390(C).

5. MCC 6.31.190(G). This code provision required AA to inform EMS Central Dispatch of a request for emergency services or when AA 51 became unavailable to respond to dispatch orders. As indicated by the communication transcript, AA Ambulance notified Central Dispatch of what was happening and thus did not violate this requirement.

IV. CONCLUSION

There are a variety of ways to look at this case. The most likely way is to treat AA 51 as having been taken out of service to the EMS Central Dispatch system and used merely to transport a driver to AA 61. This would be authorized by EMS Rule 631-316 or 631-320(E)(5) or both. In the alternative, AA 51 could be treated as acting in response to an AA service area call under EMS Rule 631-320(F). Whatever the treatment, AA's actions were authorized by the EMS rules and were not a violation.

The Hearings Officer should find that AA Ambulance did not violate the EMS rules or the Multnomah County Code.

Very truly yours,

Ch P. Thomas

Christopher P. Thomas

CPT:mab
cc: Pete Robedeau
Joe Acker

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5

In the Matter of) APPEAL
AA Ambulance) Hearing Memorandum
Run #691/208769A)

[6 PROCEDURAL POSTURE OF THE CASE

7 On April 14, 1987 a citizen complaint was filed regarding
8 an ambulance response by AA Ambulance (licensee) on April 13, 1987
9 at 3:24 p.m. near NE 7th and Alberta (hereinafter referred to as
10 AA Run #691/208769A). (See Ex. 1.)

11 On May 19, 1987, Joe Acker III, Director of Emergency
12 Medical Services (EMS), made a request of licensee, pursuant to
13 EMS Rule 631-050, for the patient care report for the back-up
14 ambulance from licensee as well as a copy of licensee's radio tape
15 concerning the incident. (See Ex. 2.)

16 On May 21, 1987 Mr. Acker sent licensee's supervising
17 physician, Michael Sequeira, a list of questions from the Quality
18 Assurance Subcommittee regarding AA Run #691/208769A. (See Ex. 3.)

19 Dr. Sequeira responded to that list of questions in an
20 undated report. (See Ex. 4.)

21 On June 4, 1987 the material requested by Mr. Acker on
22 May 21 was delivered to him through Christopher Thomas, attorney
23 for licensee.

24 On June 25, 1987 Mr. Acker sent Dr. Sequeira the findings
25 of the Quality Assurance Subcommittee based, in part, on
26 Dr. Sequeira's response. (See Ex. 5.)

1 On June 29, 1987 Mr. Acker sent a letter to the
2 complainant regarding this incident. The letter essentially
3 reported the findings of the Quality Assurance Committee and
4 Dr. Sequeira. (See Ex. 6.)

5 On September 15, 1987, Mr. Acker sent licensee a letter
6 notifying it of a \$250 fine for violations of County Code
7 provisions and EMS rules. (See Ex. 7.)

8 On November 13, 1987 Mr. Thomas, on behalf of licensee,
9 sent a letter giving Notice of Appeal of the violation. (See
10 Ex. 8.)

11 Some time prior to December 2, 1987 B.B. Bouneff was
12 contacted by Emergency Medical Services and requested to act as
13 Hearings Officer for this appeal.

14 On December 2, 1987 Mr. Bouneff notified Mr. Thomas that
15 the hearing on the appeal would be held on December 16, 1987 at
16 9:30 a.m. in his offices. (See Ex. 9.)

17 On December 4, 1987 Mr. Thomas confirmed with Mr. Acker
18 that the hearing had been reset to December 21, 1987 at 9:00 a.m.
19 (See Ex. 10.)

20 The County will be represented at the hearing by Sandra
21 Duffy, Assistant County Counsel. The County estimates that its
22 presentation will take no more than two hours and will consist of
23 testimony from three or four witnesses as well as other evidence.

24 STATEMENT OF FACTS

25 At approximately 3:00 p.m. on April 13, 1987 a neighbor
26 of patient called EMS Central Dispatch (911) and requested aid.

1 The patient's only symptom was shaking which had begun 30 minutes
2 earlier.

3 At 3:04 p.m. licensee's ambulance #61 (AA 61), an
4 advanced life support (ALS) ambulance, was dispatched Code 3 by
5 EMS to NE 7th and Alberta on an unknown problem. [On arrival at
6 3:06 p.m. the Emergency Medical Technicians (EMTs) saw the 36 year
7 old overweight black female patient lying on a bed in a dark
8 room. They found the patient conscious, oriented, excited and
9 shivering, although she denied being cold. Patient denied all
10 symptoms except shivering. The EMTs examined the patient, drew
11 blood, took an EKG and installed a heparin lock. (See Ex. 11.)

12 According to the EMTs the Portland Fire Bureau (PFB) came
13 on the scene and did a patient assessment including a VIS (taking
14 vital signs). (See Ex. 11.) However, PFB indicates it was
15 cancelled as their truck came around the corner at 7th and Alberta
16 at about 3:08 p.m. and that they never saw or assessed the patient
17 and left the scene at 3:11 p.m. (See Ex. 13.)

18 According to the EMTs the patient was then asked to move
19 into the living room (5-8 feet) to allow a more thorough exam with
20 better light. The EMTs prepared to get a stretcher to transport
21 patient to ambulance but she refused and insisted on walking out.
22 She walked out with the EMTs beside her and a friend followed the
23 patient with a chair "in case tremors increased". (See Ex. 13.)

24 The patient's neighbors provide facts which differ with
25 the EMTs on some of these facts. They allege that the EMTs had
26 the patient walk out to the ambulance barefoot and with no robe or

1 coat. The patient's friend was asked to carry the chair at the
2 EMTs' direction "in case she gets too tired". The neighbors
3 allege that only moments earlier the EMTs had used electrical
4 paddles to revive the patient and had injected her with
5 epinephrine. The EMTs deny such procedures took place. (See
6 Ex. 1.)]

7 AA 61 left the scene at 3:23 p.m. At 3:24 p.m. AA 61 was
8 enroute to Providence Hospital with the patient when she began to
9 have a seizure. (See Ex. 14.) EMT Filler had the driver,
10 EMT Hernandez, stop and help position patient for life saving
11 procedures. Two EMTs were needed because of patient's weight.
12 Numerous procedures were implemented. (See Exs. 11, 12a and 12b.)

13 A self-dispatched call internal to licensee was made by
14 AA 61 asking for Code 3 backup. (See Exs. 17 and 18.)

15 At 3:30 p.m. AA 51, also an ALS ambulance, informed EMS
16 that they were enroute to 7th and Alberta to assist AA 61. (See
17 Exs. 17 and 18.)

18 At 3:32 p.m. EMS calls AA dispatch to find out what AA 51
19 is doing. AA 51 explains that they are backing up AA 61. (See
20 Exs. 17 and 18.)

21 Backup AA 51 arrived at AA 61's location and dropped off
22 an EMT from AA 51 who drove the vehicle Code 3 to Emanuel at
23 3:38 p.m. (See Exs. 17 and 18.)

24 At 3:39 p.m. AA 51 is out-of-service because partner is
25 with AA 61. (See Exs. 17 and 18.)

26 At 3:40 p.m. AA 61 arrives at Emanuel. Patient had no

1 pulse and no blood pressure reading and is announced as a "99"
2 upon arrival (dead). According to the death certificate, she was
3 pronounced dead at 4:20 p.m. (See Exs. 15 and 19.)

4 APPLICABLE CODE PROVISIONS AND EMS RULES

5 Multnomah County Code provisions 6.31.190(F) and (G)
6 provide as follows:

7 6.31.190 Prohibited activities. No applicant
8 or licensee, applicant's or licensee's employe or
9 any other person doing business as defined hereunder
10 shall:

11

12 (F) Fail or refuse to promptly advise the
13 Emergency Medical Services Central Dispatch Office
14 of receipt of a request for emergency medical
15 assistance or when a licensee's ambulance becomes
16 available or non-available to respond to dispatch
17 orders;

18 (G) Respond by ambulance to an emergency call
19 unless so authorized by the Emergency Medical
20 Services Central Dispatch Office or under a
21 provision of this chapter or rule adopted hereunder;

22

23 EMS Rule 631-390(C) which provides as follows:

24 631-390 Prohibited activities. No applicant or
25 licensee, applicant's or licensee's employee or any
26 other person doing business as defined in MCC 6.31
shall:

27

28 (C) Respond by ambulance to an emergency call
29 unless so authorized by the Emergency Medical
30 Services Central Dispatch Office or under MCC 6.31.

31 Additionally, EMS Rules are 631-320(F) and (G) which are
32 potentially relevant, provide as follows:

33 ///

1 631-320 Ambulance Dispatch. The following
2 apply to licensees which operate emergency
ambulances.

3 (F) Standing Authorization to Respond. A
4 licensee shall be deemed to have a standing
5 authorization to respond by ambulance to any
6 emergency call received by the licensee, and may,
accordingly, immediately respond to the call,
provided that:

7 (1) The licensee's dispatcher relays the
8 information required in paragraph (B)¹ of this
9 rule, including the unit number of the ambulance,
and the location from which it is responding, to EMS
Central Dispatch immediately after dispatching the
ambulance. [EMS 3-80, 1/12/81; EMS 5-82, 11/15/82]

10 (2) The call is in the licensee's
11 ambulance service area; and, [EMS 3-80, 1/12/81; EMS
5/82, 11/15/82]

12 (3) The licensee has more than 50% of its
13 ambulances available within its ambulance service
area. [EMS 3-80, 1/12/81; EMS 5-82, 11/15/82]

14 (4) A licensee shall utilize the triage
15 guide adopted under these rules in determining
whether a call requires an emergency response. [EMS
16 3-80, 1/12/81; EMS 5-82, 11/15/82]

17 (5) EMS Central Dispatch may cancel any
18 ambulance dispatched by a licensee under this
standing authorization rule. [EMS 3/80, 1/12/81]

19 _____
20 ¹ (B) Receipt of Emergency Calls. Except as otherwise
21 provided in paragraph (F), upon receipt of a request for
22 emergency medical assistance a licensee shall immediately
relay the following information to EMS Central Dispatch.

- 23 (1) the location of the emergency
24 (2) the nature of the emergency
25 (3) the telephone number of the caller.

26 The above information shall be relayed by telephone
connected directly and exclusively to EMS Central
Dispatch.

1 (G) The provisions of paragraph (F) of this
2 rule shall not apply where an ambulance crew
3 determines that there is a need for one or more
4 additional vehicles at the scene of an emergency.
5 Where such a determination is made, the ambulance
6 crew shall promptly contact EMS Central Dispatch to
7 request the additional vehicles. The crew shall
8 advise EMS Central Dispatch of the number and type
9 of units needed. [EMS 3-80, 1/12/81; EMS 1-81,
10 2/23/81; EMS 3-81, 7/27/81; EMS 5-82, 11/15/82]

11 APPLICATION OF THE FACTS

12 AA 61, while enroute to Providence Hospital Code 1, did a
13 self-dispatch for a Code 3 ambulance as backup. In other words,
14 AA 61 called its ambulance company dispatcher for backup who in
15 turn dispatched AA 51 without notification to EMS dispatch.

16 MCC 6.31.190(F) was violated in two particulars:

17 (1) Failure of AA Ambulance dispatch and/or AA 51 to advise EMS
18 dispatch of the receipt (from AA 61) of a request for emergency
19 medical assistance²; and (2) Failure of AA Ambulance dispatch to
20 advise EMS dispatch that AA 51 was "non-available to respond to
21 dispatch orders".

22 MCC 6.31.190(G) and EMS Rule 631-390(C) were violated
23 when AA 51 responded to an emergency call that was not authorized
24 by the EMS Central Dispatch Office.

25 ² AA's attorney seems to proffer the argument that this rule was
26 not violated because no medical assistance was actually
rendered by AA 51. Of more importance is the request which,
according to EMS and AA tapes was for "Code 3 assistance".
Semantics should not be the name of the game in emergency
services.

1 Additionally, EMS Rule 631-320(B) was violated in that AA
2 Ambulance Dispatch, upon receipt of the request for a backup from
3 AA 61, failed to relay to EMS Central Dispatch the location and
4 nature of the emergency and the telephone number of the caller.
5 In fact, EMS dispatch became aware that AA 51 was out on a call
6 and called AA 51 to find out what was going on.

7 While it is true that EMS Rule 631-320(F) gives a
8 licensee "standing authorization to respond", there are five
9 conditions to that authorization (see page 6, supra). The most
10 important of those provisions is subsection 1 which requires that
11 the information required by EMS Rule 631-320(B) (location and
12 nature of the emergency and the telephone number of the caller)
13 and the unit number of the ambulance and the location from which
14 it is responding, be relayed to EMS Central Dispatch. This
15 information was not relayed; it had to be obtained by EMS Central
16 Dispatch by calling AA 51. The other conditions of the rule were
17 either met, unknown or unnecessary.

18 **REBUTTAL TO LICENSEE'S ANTICIPATED DEFENSE**

19 (1) Licensee states "we believe that EMS Rule 631-390(C)
20 is not applicable to this case." (See Ex. 16.) That rule
21 prohibits a licensee from responding by ambulance to an emergency
22 call unless authorized by the EMS Central Dispatch Office or
23 MCC 6.31. That provision applies by its terms to every licensee
24 or licensee's employee. Licensee has proffered no authority to
25 show otherwise.

26 (2) Licensee believes that EMS Temporary Rule 1-86-A

1 applies to this case. That temporary rule repealed EMS Rule
2 631-320(E) except paragraph A and adopted a new rule in its
3 place. The "relevant" section of the former rule, according to
4 licensee, is subsection (E)(5) which allowed a provider to
5 dispatch a BLS ambulance Code 3 to the emergency. The temporary
6 rule (subsection (A)(4)) authorized a provider to use its
7 ambulance for Code 1 or Code 3 calls until there are only eight
8 ambulances available. However, the rule says "Code 3 approved
9 calls"; the clear implication is authorization from EMS Central
10 Dispatch is required. (See App. 3, pg. 2.) That Temporary Rule
11 was abrogated upon the adoption of EMS Order 2/86 dated
12 December 15, 1986 which created new permanent rules. (See App. 4.)

13 The incident which resulted in this hearing took place
14 April 13, 1987. There were no temporary rules in effect at that
15 time.

16 Licensee indicates that this situation would have been
17 covered by EMS Rule 631-320(E)(5) if Temporary Rule 1-86-A wasn't
18 in place. That EMS rule applies to Basic Life Support (BLS)
19 ambulances of a licensee. Both AA 51 and AA 61 are Advanced Life
20 Support (ALS) ambulances.

21 While it is not clearly articulated, there appears to be
22 a line of argument here that AA 51 should be treated as a BLS
23 ambulance because it only provided BLS functions (acted as a
24 driver not as an EMT IV). That line of reasoning ignores two
25 important facts: (1) AA 51 responded to a request for a Code 3
26 backup -- a service only an ALS ambulance can provide; and (2)

1 AA 51's response took an ALS ambulance out-of-service without
2 notification to EMS Central Dispatch. The confusion which would
3 have occurred had another Code 3 call come into AA 51's service
4 area is obvious and could have resulted in a tragic loss of time
5 and perhaps life.

6 In any event, EMS Rule 631-320(E)(5) also requires the
7 licensee to advise EMS Dispatch of the number of the unit
8 responding, the location of the unit and the location of the
9 emergency. Again, AA 51 had to be contacted by EMS Dispatch to
10 obtain the necessary information. EMS Rule 631-320(E)(5)(c).

11 (3) Licensee also cites EMS Rule 631-320(F) (standing
12 authorization to respond) as authorization to self-dispatch. (See
13 Ex. 16.) As noted above, that rule requires relaying of specific
14 information by licensee to EMS Central Dispatch which did not
15 occur here. EMS Rule 631-320(F)(1).

16 CONCLUSION

17 Licensee has violated Multnomah County ordinances and EMS
18 rules in allowing AA 51 to respond Code 3 to AA 61's request for
19 backup. While it is true that it is not known whether another
20 ambulance was more appropriate to dispatch or whether that could

21 ///

22 ///

23 ///

24 ///

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26 ///

1 have made a difference for the patient, the necessity to keep EMS
2 Central Dispatch informed of all ambulance activity is absolutely
3 critical in this life and death business.

4 Respectfully submitted,

5 LAURENCE KRESSEL, COUNTY COUNSEL
6 FOR MULTNOMAH COUNTY, OREGON

7 By Sandra Duffy
8 Sandra Duffy, OSB 482044
9 Assistant County Counsel
10 Of Attorneys for Multnomah County

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Page 11 - HEARING MEMORANDUM

MULTNOMAH COUNTY COUNSEL
1120 S.W. Fifth, Suite 1400
Portland, OR 97204-1934
Telephone (503) 248-3138

DATE SUBMITTED _____

(For Clerk's Use)
Meeting Date _____
Agenda No. _____

REQUEST FOR PLACEMENT ON THE AGENDA

Subject: EMS Appeal Hearings

Informal Only* _____
(Date)

Formal Only Tuesday, August 2, 1988
(Date)

DEPARTMENT _____ DIVISION _____

CONTACT Joe Acker & Sandra Duffy TELEPHONE 248-3674 & 248-3138

*NAME(S) OF PERSON MAKING PRESENTATION TO BOARD _____

BRIEF SUMMARY Should include other alternatives explored, if applicable, and clear statement of rationale for the action requested.

Hearing on exceptions to Hearings Officer Final Order regarding EMS Rule Violation on Ambulance Run #691/208769A

Continued from 8/18/88.

(IF ADDITIONAL SPACE IS NEEDED, PLEASE USE REVERSE SIDE)

ACTION REQUESTED:

- INFORMATION ONLY
- PRELIMINARY APPROVAL
- POLICY DIRECTION
- APPROVAL

INDICATE THE ESTIMATED TIME NEEDED ON AGENDA _____

IMPACT:

PERSONNEL

FISCAL/BUDGETARY

- General Fund

Other _____

*Rec June 20, 1988
Jane McFarwin*

SIGNATURES:

DEPARTMENT HEAD, ELECTED OFFICIAL, or COUNTY COMMISSIONER: Jane McFarwin Clerk

BUDGET / PERSONNEL _____ /

COUNTY COUNSEL (Ordinances, Resolutions, Agreements, Contracts) _____

OTHER _____
(Purchasing, Facilities Management, etc.)

NOTE: If requesting unanimous consent, state situation requiring emergency action on back.

CHRISTOPHER P. THOMAS

ATTORNEY AT LAW
2000 S.W. 1ST AVENUE
SUITE 400
PORTLAND, OREGON 97201
TELEPHONE (503) 227-1116

bcc ✓
BOARD OF
COUNTY COMMISSIONERS
1988 JUL 21 PM 3:09
MULTNOMAH COUNTY
OREGON

July 21, 1988

Ms. Jane McGarvin
Clerk, Board of County Commissioners
606 Multnomah County Courthouse
1021 SW Fourth Avenue
Portland, OR 97204

Subject: Exceptions to Proposed Final Order for
EMS Rule Violation on Ambulance Run #691/208769A

Dear Ms. McGarvin:

Pursuant to your June 30, 1988 letter, I enclose exceptions to be considered by the County Commission at its August 2, 9:30 a.m. hearing on this matter.

Very truly yours,

Ch P. Thomas

Christopher P. Thomas

CPT:mab
cc: Pete Robedeau
Sandra Duffy

1 The Hearings Officer also found that AA Ambulance violated
2 MCC 6.31.190(G). That code section prohibits an ambulance
3 provider from responding by ambulance to an emergency call unless
4 so authorized by EMS Central Dispatch or by MCC Chapter 6.31 or a
5 rule adopted thereunder.

6 The EMS rule and code section supposedly violated by AA
7 Ambulance are essentially the same. The issue in this proceeding
8 is whether AA Ambulance vehicle 61 had the authority to call AA's
9 dispatcher for "a car Code 3" in order to get a driver to the
10 scene as soon as possible. If any EMS rule authorizes this, then
11 AA Ambulance did not commit a violation. If no EMS rule
12 authorizes this, then AA61 should have called EMS Central
13 Dispatch rather than AA's dispatcher and, by failing to do so,
14 committed a violation.

15 AA Ambulance maintains that AA61 had authority under an EMS
16 rule to call AA's dispatcher for "a car Code 3" in order to get a
17 driver to the scene as soon as possible. The Proposed Final
18 Order concludes to the contrary. AA Ambulance therefore takes
19 exception to the conclusions of the Proposed Final Order.

20 EMS Rule 631-320(F). First, AA Ambulance maintains that it
21 had authority to act as it did under EMS Rule 631-320(F). That
22 rule authorizes an ambulance provider to respond immediately to
23 an emergency call from a licensee if:

- 24 (1) The provider's dispatcher relays certain information to
25 EMS Central Dispatch immediately after dispatching the
26 ambulance. Here, the Hearings Officer found that AA51

1 notified EMS Central Dispatch that it was en route to
2 NE 7th and Alberta to back up AA61 and subsequently
3 notified EMS that it was out of service because one
4 paramedic was in AA61. The applicable provisions of
5 this requirement were met.

6 (2) The call is in the provider's service area. Here, the
7 Hearings Officer found that the evidence was that the
8 call was in AA's service area. This requirement was
9 met.

10 (3) The licensee has more than 50% of its ambulances
11 available within its ambulance service area. Here, the
12 Hearings Officer found that the evidence was that AA
13 Ambulance had more than 50% of its ambulances available
14 within its service area. This requirement was met.

15 (4) The licensee uses the triage guide to determine whether
16 the call needs an emergency response. Here, the triage
17 guide was not applicable, since the need was for a
18 driver for a patient who already was the subject of a
19 valid call. This requirement was not applicable.

20 In other words, Rule 631-320(F) appears to authorize AA
21 Ambulance's action in this case. There is an exception, however,
22 in Rule 631-320(G), which says that the preceding rule does not
23 apply where an ambulance crew determines that there is a need for
24 one or more additional vehicles at the scene of an emergency.
25 The purpose of this exception is to give EMS Central Dispatch
26 control over the dispatching of ambulances to a multiple casualty

1 emergency. Here, there was not a multiple casualty emergency.
2 Rather, there was a need for another driver. The exception
3 therefore does not apply. Thus, with the exception being
4 inapplicable, AA Ambulance's action in this case was authorized
5 by EMS Rule 631-320(F).

6 Notwithstanding this, for some unexplained reason, the
7 Hearings Officer concluded that Rule 631-320(F) "does not apply
8 in this situation." AA Ambulance can imagine only two possible
9 thoughts the Hearings Officer might have had. He might have
10 concluded the rule does not apply because the call was not an
11 emergency call. If that is the case, however, there was no
12 violation because the two supposed violations only can occur if
13 there is an unauthorized response to "an emergency call." The
14 other possibility is that the Hearings Officer believed that the
15 "multiple casualty" exception applied to this case. If so, his
16 legal conclusion was incorrect.

17 EMS Rule 631-316. This rule authorizes a licensee to take
18 an ambulance out of service to EMS Central Dispatch if there are
19 more than eight ALS-staffed ambulances available to the system.
20 Here, the Hearings Officer found that the evidence was that there
21 were more than eight ALS ambulances available to the system. EMS
22 Rule 631-314 requires the crew of a vehicle to inform EMS Central
23 Dispatch promptly by radio if it goes out of service so that it
24 no longer is able to respond to EMS dispatch orders. Here, the
25 Hearings Officer found that the crew of AA51 did notify EMS
26

1 Central Dispatch that it was proceeding to back up AA61. Thus AA
2 Ambulance appears to have authority for what it did.

3 Once an ALS ambulance is taken out of service, it can be
4 treated as a BLS ambulance. The Hearings Officer found that the
5 evidence was that AA's ambulances serve as both ALS and BLS
6 ambulances. EMS Rule 631-320(E)(5) authorizes a provider to
7 dispatch a BLS ambulance Code 3 to the scene of an emergency at
8 the request of an ALS ambulance for additional manpower if the
9 ALS ambulance transports emergency patients and if the provider
10 advises EMS Central Dispatch of certain information. Here, AA61
11 requested a car Code 3 in order to get a driver, AA61 transported
12 the patient, and AA Ambulance gave the appropriate information to
13 EMS Central Dispatch.

14 Here too, however, for some unexplained reason, the Hearings
15 Officer found that AA Ambulance did not take AA51 out of service.
16 This is strange because AA51 clearly was not available to EMS
17 Central Dispatch and everyone knew it. Here too, the Hearings
18 officer's conclusion was incorrect.

19 3. Penalty. The EMS Office imposed the maximum fine on AA
20 Ambulance (\$250), and the Hearings Officer upheld it. Even if
21 there was a violation, which AA Ambulance vigorously disputes,
22 the violation at most was the use of the wrong words and should
23 not have been pursued much less subjected to the maximum fine.

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25 ///

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1 For the reasons stated, the Hearings Officer's Proposed
2 Final Order should be rejected and an order entered exonerating
3 AA Ambulance.

4 Respectfully submitted,

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Christopher P. Thomas

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MULTNOMAH COUNTY OREGON

DEPARTMENT OF GENERAL SERVICES
COUNTY COUNSEL SECTION
1120 S.W. FIFTH AVENUE, SUITE 1400
P.O. BOX 849
PORTLAND, OREGON 97207-0849
(503) 248-3138

BOARD OF COUNTY COMMISSIONERS
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COUNTY COUNSEL
LAURENCE KRESSEL

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ASSISTANTS

JOHN L. DU BAY
SANDRA N. DUFFY
J. MICHAEL DOYLE
H. H. LAZENBY, JR.
PAUL G. MACKAY
MARK B. WILLIAMS

TO: Jane McGarvin
Clerk of the Board (101/606)

Emergency Medical Services Policy Board

FROM: Sandra Duffy, *Sandy*
Assistant County Counsel

DATE: June 16, 1988

RE: Proposed Final Order for EMS Rule
Violation on Ambulance Rune #691/208769A

Enclosed is the Proposed Final Order adopted and signed by B. B. Bouneff, the hearings officer in the above-referenced matter.

MCC 6.31.180(G) requires that a copy of the proposed order be mailed to the EMS Policy Board. However, MCC 6.31.180(H) requires that the Clerk of the Board send notification to the parties of the date when written exceptions to the proposed order must be filed and when oral argument may be made. There are no time frames set out in the code. I would suggest that the hearing be set in about three to four weeks, and the deadline for exceptions to be filed be set 10 days before the hearing date.

Larry Kressel and I will meet with the Board prior to the hearing to discuss the form of the hearing.

1595R/dm

cc: Joe Acker, EMS Director (w/encl.)
Larry Kressel, County Counsel (w/encl.)

1988 JUN 20 PM 2:10
MULTNOMAH COUNTY
OREGON
BOARD OF
COUNTY COMMISSIONERS

4 This matter came on for hearing on December 21, 1987
5 before Hearings Officer B. B. Bouneff. AA Ambulance was
6 represented by its attorney, Christopher P. Thomas, and Multnomah
7 County Emergency Medical Services was represented by its
8 attorney, Sandra Duffy, Assistant County Counsel. After hearing
9 testimony of witnesses; reviewing documentary evidence including
10 tape recordings; reviewing legal memoranda of counsel; hearing
11 argument of counsel; and, considering the relevant portions of
12 the Multnomah County Code and the EMS Rules, the Hearings Officer
13 found, pursuant to MCC 6.31.180(G) and in accordance with
14 Attorney General's Model Rules of Procedure Rule 137-03-070, as
15 follows:

16 1. EVIDENCE.

17 Exhibits 1, 2, 7, 8, 9, 10, 11, 12, 14, 16, 17,
18 18, 19, 20, 21 and 22 are admitted into evidence. Exhibits 3, 4,
19 5, 6, 13 and 15 are not admitted into evidence.

20 2. FINDINGS OF FACT.

21 On April 13, 1987 AA Ambulance Unit Number 61
22 (AA61), an advanced life support (ALS) ambulance, left the scene
23 of an emergency response at 3:23 p.m. At 3:24 AA61 was en route
24 to Providence Hospital with the patient when she began to have a
25 seizure. Emergency Medical Technician (EMT) Filler had the

26 /// /// ///

1 driver, EMT Hernandez, stop and help position the patient for
2 life saving procedures.

3 AA61 called the AA Ambulance dispatcher and asked
4 for a backup car (an ALS ambulance with two Emergency Medical
5 Technicians, Class IV on board). AA61 testified they called the
6 AA dispatcher rather than Emergency Medical Services (EMS)
7 Central Dispatcher because the radio transmitting to AA was more
8 accessible. Evidence indicated the AA radio was in the rear
9 compartment whereas the EMS radio was in the front of the
10 vehicle. AA Dispatch sent AA51 to meet AA61. At 3:30 p.m. AA51,
11 also an ALS ambulance, informed EMS Dispatch Office that they
12 were en route to N.E. 7th and Alberta to assist AA61. AA51
13 explained it was backing up AA61. Evidence indicates that EMS
14 Dispatch was unsure as to what was occurring and at 3:32 p.m.,
15 EMS Dispatch Office telephoned AA Dispatch to find out what AA51
16 was doing. AA51 arrived at AA61's location and dropped off an
17 EMT from AA51 who drove AA61 Code 3 to Emanuel Hospital at 3:38
18 p.m.

19 At 3:39 p.m. AA51 informed EMS Dispatch Office
20 that it was out-of-service because his partner was with AA61.
21 Evidence was introduced to indicate that the 7th and Alberta
22 location was within AA Ambulance's service area. Undisputed
23 evidence indicated that when AA dispatched AA51, there were more
24 than eight ALS ambulances available for call in Multnomah County.
25 Further evidence indicated that at the time AA had more than 50%

26 /// /// ///

1 of its ALS ambulances available within its service area, and AA's
2 ambulances served both as ALS and as Basic Life Support (BLS)
3 ambulances.

4 I believe the crux of the matter is whether or not
5 the EMS Rules require specifically the crew of the ambulance to
6 request the EMS dispatch office for an additional vehicle or
7 whether such request could be from AA Ambulance's dispatcher or
8 other agent. It is also crucial as to whether or not such
9 dispatch of additional vehicle could be on the order of other
10 agencies other than the EMS dispatcher.

11 There was conflicting evidence regarding the radio
12 call from the crew of AA61 for backup. AA Ambulance stated that
13 the crew of AA61 called for a driver. The County alleged that
14 the request was for a "a car Code 3" (an ALS ambulance with two
15 Emergency Medical Technicians, Class IV, on board). While the
16 three tape recordings are of terrible quality, all three agree on
17 the salient points. I find that all three tapes indicate that
18 the request was for a car Code 3, and not for a driver.

19 However, I also find that the AA dispatcher and
20 the crew of AA51 (the backup ALS ambulance which responded to
21 AA61's request) did advise the EMS Central Dispatch office of the
22 request on the part of AA61 and the status of the two vehicles.

23 3. CONCLUSIONS OF LAW.

24 a. AA Ambulance did not assert that it had the
25 authorization of the Emergency Medical Services Dispatch Office
26 prior to dispatching AA51 to backup AA61. It did assert,

1 however, that other provisions of the County Code and/or the EMS
2 Rules allowed such a dispatch. I find that AA Ambulance violated
3 EMS Rule 6.31.390(C)¹ by responding by ambulance to an emergency
4 call without the authorization of Emergency Medical Services
5 Dispatch Office or under any other provision of MCC 6.31.

6 b. I find that AA Ambulance violated Multnomah
7 County Code 6.31.190(G)² by responding by ambulance to an
8 emergency call without the authorization of Emergency Services
9 Dispatch Office or under the authority of any other provisions of
10 this ordinance or EMS Rule.

11 /// /// ///

12 /// /// ///

13 /// /// ///

14 1 EMS Rule 631-390(C) provides: "Prohibited activities.
15 No applicant or licensee, applicant's or licensee's
16 employee or any other person doing business as defined
in MCC 6.31 shall:

17 * * *

18 (C) Respond by ambulance to an emergency call unless
19 so authorized by the Emergency Medical Services
Central Dispatch Office or under MCC 6.31."

20 2 MCC 6.31.190(G) provides: "Prohibited activities. No
21 applicant or licensee, applicant's or licensee's
22 employee or any other person doing business as defined
hereunder shall:

23 * * *

24 (G) Respond by ambulance to an emergency call unless
25 so authorized by the Emergency Medical Services
26 Central Dispatch Office or under a provision of
this ordinance or rule adopted hereunder."

1 c. I find that AA Ambulance did not violate MCC
2 6.31.190(F)³ because the AA dispatcher and crew of AA51 advised
3 the EMS Central Dispatch Office of the request on the part of
4 AA61 and the status of the two vehicles.

5 d. I find that EMS Rule 631-320(F) does not
6 apply in this situation.⁴

7 3 MCC 6.31.190(F) provides: "Prohibited activities. No
8 applicant or licensee, applicant's or licensee's
9 employee or any other person doing business as defined
hereunder shall:

10 * * *

11 (F) Fail or refuse to promptly advise the Emergency
12 Medical Services Central Dispatch Office of
13 receipt of a request for emergency medical
14 assistance or when a licensee's ambulance becomes
available or non-available to respond to dispatch
order.

15 4 EMS Rule 631-230(F) and (G) provide:

16 "(F) A licensee shall be deemed to have a standing
17 authorization to respond by ambulance to an emergency
18 call received by the licensee, and may, accordingly,
immediately respond to the call, provided that:

19 "(1) The licensee's dispatcher relays the
20 information required in paragraph (B) of this rule
21 [location and nature of emergency and telephone
22 number of caller], including the unit number of
the ambulance, and the location from which it is
23 responding, to EMS Central Dispatch immediately
after dispatching the ambulance.

24 "(2) The call is in the licensee's ambulance
25 service area; and,

26 "(3) The licensee has more than 50% of its
ambulances available within its ambulance service
area.

"(4) A licensee shall utilize the triage guide

1 e. I find that during the pertinent times
2 herein, AA did not take AA51 out of service.⁵

3 adopted under these rules in determining whether a
4 call requires an emergency response.

5 "(5) EMS Central Dispatch may cancel any
6 ambulance dispatched by a licensee under this
standing authorization rule."

7 "(G) The provisions of paragraph (F) of this rule shall
8 not apply where an ambulance crew determines that
9 there is a need for one or more additional
10 vehicles at the scene of an emergency. Where such
11 a determination is made, the ambulance crew shall
promptly contact EMS Central Dispatch to request
the additional vehicles. The crew shall advise
EMS Central Dispatch of the number and types of
units needed."

12 5 EMS Rule 631-316, 631-314, and 631-320(E) (5) provide:

13 "631-316 A licensee's ambulance may be taken out of
14 service to the EMS Central Dispatch system if there are
15 more than eight licensed ALS-staffed ambulances
available for calls in Multnomah County. . ."

16 "631-314 The Crew of each vehicle shall promptly
17 inform EMS Central Dispatch of the following changes in
status by radio:

18 ". . .

19 "(I) Out of service (no longer available to respond to
dispatch orders from EMS Central Dispatch.)"

20 "631-320(E) (5) Licensee's BLS ambulance may respond
21 Code-3 to the scene of an emergency under the following
conditions:

22 "(a) An ALS ambulance requests addition manpower
23 at the scene of an emergency and the ALS ambulance
transports the emergency patients; or

24 "(b) . . .

25 "(c) Licensee advises EMS Dispatch by radio or
26 telephone of the number of the unit responding,

1 4. ORDER.

2 Based upon my finding that AA Ambulance did
3 violate a County Code provision and an EMS Rule, I find that the
4 fine of \$250.00 on the part of the Director of Emergency Medical
5 Services (See Exhibit 7) is appropriate and order that it be paid
6 by licensee.

7 5. APPEAL RIGHTS.

8 a. Final Order. Pursuant to MCC 6.31.180(J),
9 the Board of County Commissioners (BCC) may accept the proposed
10 final order, modify it or reject it and prepare, or cause a
11 person designated by it to prepare a final order.

12 b. Reconsideration. MCC 6.31.184 provides that
13 the BCC may reconsider a final order upon the filing of a
14 petition for reconsideration within 15 days after issuance of the
15 order. If no action is taken by the BCC within 15 days after the
16 petition is filed, the petition shall be deemed denied. If the
17 petition is allowed by vote of the BCC, a hearing on the
18 reconsideration shall be held and an amended order shall be
19 issued.

20 c. Judicial Review. Review of the action of the
21 BCC shall be taken solely and exclusively by writ of review in
22 the manner set forth in ORS 34.010 to 34.100.

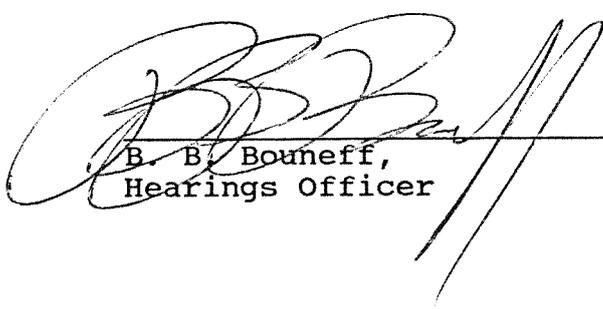
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25 the location from which the unit is responding and
26 the location of the emergency."

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THIS PROPOSED FINAL ORDER IS ADOPTED this 15th day
of June, 1988.



B. B. Bouneff,
Hearings Officer

*Co. of Thomas have
agreed to these
facts 8/23/88*

1 In the Matter of)
AA Ambulance) STIPULATED FACTS OF RECORD
2 Run #691/208769A)

3 1. BACKGROUND

4 A hearing was held on the above-referenced matter on
5 December 21, 1987 before B.B. Bouneff, hearings officer. The
6 parties presented testimony and documentary evidence. The
7 hearings officer issued a proposed final order. A hearing will
8 be held on August 23, 1988 before the Board of County
9 Commissioners (BCC) who will accept, reject, or modify the order.
10 The hearing before the BCC is "on the record". The record, as it
11 now exists, is documentary evidence only; the oral evidence was
12 not transcribed, recorded or reported and thus, does not exist.
13 Rather than rehear the oral testimony, the parties have agreed to
14 stipulate to agreed facts and to supplement with any statements
15 which, while not agreed to, are representative of testimony
16 witnesses would have if another hearing were held.

17 2. AGREED FACTS

18 a) At 3:23 p.m. on April 13, 1987, AA Ambulance Unit Number
19 61 (AA 61), an advanced life support (ALS) ambulance, left the
20 scene of an emergency response.

21 b) At 3:24 p.m., AA 61 was en route to Providence Hospital
22 with the patient when she began to have a cardiac arrest.

23 c) Emergency Medical Technician (EMT) Filler had the driver,
24 EMT Hernandez, stop and help position the patient for life saving
25 procedures.

26

Christopher P. Thomas
State of Florida, Department of Health
Bureau of Health Services

1 d) AA 61 called the AA Ambulance dispatcher and asked for "a
2 Code 3 backup."

3 e) AA Dispatch sent AA 51 to meet AA 61.

4 f) At 3:30 p.m., AA 51, also an ALS ambulance, informed EMS
5 Dispatch that it was en route from Emanuel Hospital to NE 7th and
6 Alberta to assist AA 61. AA 51 explained it was backing up AA
7 61.

8 g) At 3:32 p.m., EMS Dispatch was unsure as to what was
9 occurring and EMS Dispatch telephoned AA Dispatch to find out
10 what AA 51 was doing. AA Dispatch informed EMS Dispatch that AA
11 51 was backing up AA 61 at 7th and Alberta.

12 h) At 3:38 p.m., an EMT from AA 51 drove AA 61 Code 3 to
13 Emanuel Hospital.

14 i) At 3:39 p.m., AA 51 informed EMS Dispatch that it was
15 out-of-service because his partner was with AA 61.

16 j) 7th and Alberta was within AA Ambulance's service area.

17 k) When AA dispatched AA 51, there were more than eight ALS
18 ambulances available for call in Multnomah County.

19 l) At the time of the dispatch of AA 51, AA had more than 50
20 percent of its ALS ambulances available within its service area.

21 m) AA's ALS units serve both ALS and BLS (basic life
22 support) functions.

23 n) Joe Acker, Director of Multnomah County Emergency Medical
24 Services, interprets "out-of-service" to mean that more than
25 eight ALS ambulances are available for service and a request is
26 made or notification is given by the ambulance unit to EMS

1 Dispatch to go out-of-service. He cites examples of when a
2 vehicle is out-of-service as: (1) when an ALS ambulance is
3 responding to a Code 1 call; (2) when it goes out on a company
4 detail; (3) when it goes on a run out of Multnomah County; and
5 (4) when it is disabled (out of gas, flat tire, mechanical
6 difficulties).

7 o) A Code 1 call is a non-emergency call or response. A
8 Code 3 call is an emergency call or response with the ambulance
9 driving as fast as is reasonably safe and with siren sounding at
10 appropriate times.

11 p) The purpose of requiring an ambulance unit to inform EMS
12 Dispatch that it is out-of-service is so EMS Dispatch knows which
13 ambulances are available for the quickest response.

14 q) As the EMS communications coordinator, Mark Hiemann has
15 custody of and supervisory duties over all the business records
16 of EMS. Among these business records are tape recordings of all
17 911 EMS Dispatch calls. Exhibit 18 is a tape of the calls made
18 to EMS Dispatch on April 13, 1987 between 3:00 and 4:00 p.m.
19 Exhibit 20 is a true and accurate transcript of that tape. The
20 transcript was made at Mr. Hiemann's direction.

21 r) Exhibit 17 is a tape of transmissions between AA 61, AA
22 51 and EMS Dispatch and AA Dispatch that was recorded by AA
23 Dispatch and sent to EMS in the investigation of this matter.
24 Exhibit 21 is a transcript of that tape, prepared at Mark
25 Hiemann's direction.

26

1 s) As the AA Ambulance operations manager, Clyde Watts has
2 custody of and supervisory duties over all the business records
3 of AA Ambulance. Among these business records are tape
4 recordings of all ambulance dispatch calls involving the AA
5 dispatcher. Exhibit 22 is a tape of transmissions between AA 61,
6 AA 51, and EMS Dispatch and the AA Dispatcher on April 13, 1987
7 between 3:00 and 4:00 p.m. Exhibit 23 is a true and accurate
8 transcript of that tape. The transcript was made at Mr. Watt's
9 direction.

10 3. SUPPLEMENTAL STATEMENTS FROM AA AMBULANCE

11 a) Witness: EMT on AA 61: One of the AA 61 EMTs called the
12 AA Dispatcher rather than the EMS Dispatcher to ask for a Code 3
13 backup because the radio transmitting to AA Dispatch was more
14 accessible. The AA radio was in the rear compartment of the
15 ambulance, whereas the EMS radio was in the front compartment.
16 The intention of the AA 61 crew in calling for a Code 3 backup
17 was to get a driver to AA 61 as quickly as possible.

18 b) Witness: EMT on AA 51 and AA Dispatcher: As soon as AA 51
19 responded to AA 61's call for a Code 3 backup, they considered AA
20 51 not to be otherwise available to the EMS system.

21 4. SUPPLEMENTAL STATEMENTS FROM EMS

22 a) Witness: Joe Acker, EMS Director: A "car Code 3" is an
23 ALS ambulance with two Emergency Medical Technicians, Class IV,
24 on board. Out-of-service does not include a Code 3 response.
25 The delivery of a driver from AA 51 to AA 61 was not a Code 1
26

1 response or a BLS function because AA 61 asked for a Code 3
2 backup which is an ALS function.

3 b) Witness: Mark Hiemann, EMS Communications Coordinator: AA
4 Ambulance did not take AA 51 out-of-service until 3:39 p.m. At
5 all pertinent times prior to that, AA 51 was in service.

6 IT IS SO AGREED.

7 DATED this 23rd day of August, 1988.

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Christopher P. Thomas
Of Attorneys for Plaintiff

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Sandra Duffy
Assistant County Counsel
Of Attorneys for Defendants

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(1523) (Time of Day)

61 (To AA Dispatch): 61.

AA Dispatch (To 61): 61.

61 (To AA Dispatch): We're Code 1 to Providence
25.4. (Mileage)

AA Dispatch: At 1524.

61 (To EMS Dispatch): 61. We're Code 1 to Providence.

EMS Dispatch (To 61): 61. 1524.

(1528)

61 (To AA Dispatch): We're stopping for a short while
at 7th and Alberta.

AA Dispatch (To 61): 1528.

AA Dispatch (To?): Time presently is 1529, 4/13/87...
Garbled...down the street...

(1530)

61 (To AA Dispatch): 61.

AA Dispatch (To 61). Go ahead 61.

61 (To AA Dispatch): 61 arrived...You got any cars in the
area? We need a Code 3 back-up at 7th
and Alberta.

AA Dispatch (To 61): Copy.

AA Dispatch (To 51): 51.

AA Dispatch (To 61): 61?

AA Dispatch (To 51): 51.

51 (To AA Dispatch): 51.

AA Dispatch (To 51): Stand by one [minute,] 51.

AA Dispatch (To 61): 61?

AA Dispatch (To 51): 51, would you advise EMS that 61 went through us to ask for a Code 3 backup at 7th & Alberta, and you're responding.

51 (To AA Dispatch): Did you want us to go on that?

AA Dispatch (To 51): Yes, sir.

51 (To AA Dispatch): Okay, we're en route... en route to the car.

51 (To AA Dispatch): Does anyone know if seizure prior to call or after?

61 (To AA Dispatch): Garbled.

51 (To AA Dispatch): Go ahead.

AA Dispatch (To ?): Better get them back in district.

EMS Dispatch (To 51): Last unit, say again?

51 (To EMS Dispatch): 51.

EMS Dispatch (To 51): 51, go ahead.

51 (To EMS Dispatch): We're clear of Emanuel, we'll be going to ..(Garbled)....We're on that call, 7th & Alberta.

EMS Dispatch (To 51): 51, I copied you're clear of Emanuel, but I didn't get the rest.

51 (To EMS Dispatch): 51's en route, 7th & Alberta.

AA Dispatch (To 51): Say again 51.

Some garbled talk here.

51 (To AA Dispatch): We'll be clear of Emanuel, but I didn't get the rest.

51 (To EMS Dispatch): We're on that call to 7th & Alberta.

51 (To AA Dispatch): We're en route to 7th & Alberta.

AA Dispatch (To 51): Copy, at 1528, you're backing up 61,
unknown what they've got.

EMS Dispatch (To 51): At 1531, backing up 61 on 7th &
Alberta. Is that a Code 1?

51 (To EMS Dispatch): A Code-3 backup.

EMS Dispatch (To 51): 7th & Alberta, copy.

1532

(Phone rings at AA Dispatch)

AA Dispatch (To EMS Dispatch): AA Ambulance.

EMS Dispatch (To AA Dispatch): Hello, this is EMS.

AA Dispatch (To EMS Dispatch): Hi, EMS.

EMS Dispatch (To AA Dispatch): I'm confused by 51.

AA Dispatch (To EMS Dispatch): Well, 61 requested Code 3
backup at 7th & Alberta with
the patient they were
transporting.

EMS Dispatch (To AA Dispatch): With the patient they were
transporting?

AA Dispatch (To EMS Dispatch): Yes, so 51's on their way
from Emanuel to assist them.

EMS Dispatch (To AA Dispatch): And 61 sort of stopped at 7th
& Alberta.

AA Dispatch (To EMS Dispatch): Yes.

EMS Dispatch (To AA Dispatch): Okay, that makes more sense.

AA Dispatch (To EMS Dispatch): Yeah. Don't feel too bad. I
felt the same way you did.

EMS Dispatch (To AA Dispatch): There is....There is a
disturbance of some kind at
9th & Alberta.

AA Dispatch (To EMS Dispatch): Oh, goodie.

EMS Dispatch (To AA Dispatch): Oh, a large gathering of
kids, and it is all

anonymous, but somebody is supposed to have a knife and somebody's supposed to have a handgun.

AA Dispatch (To EMS Dispatch): Oh, jeez. Okay, thanks.

EMS Dispatch (TO AA Dispatch): Okay.

AA Dispatch (To EMS Dispatch): Thanks.

EMS Dispatch (Operator conversations): 1532. They stopped at 7th & Alberta and asked for a Code 3 backup ambulance. Well, that's the closest thing I could figure out. Well, maybe a seizure, but...I don't know why, it must have gone to shit after they started to transport.

1533

AA Dispatch (To 51): 51.

51 (To AA Dispatch): 51.

AA Dispatch (To 51): There is a disturbance call at 9th & Alberta, weapons involved. You might be aware of that little situation.

51 (To AA Dispatch): 10-4, we're about, well they're right in front of us.

AA Dispatch (To 51): 10-4.

1535

51 (To AA Dispatch): 51's there.

AA Dispatch (To 51): Copy.

61 (To EMS Dispatch): 61 calling.

EMS Dispatch (To 61): 61.

61 (To EMS Dispatch): Yeah, we'll be 10-62 to Emanuel Code 3 with a Code 99.

EMS Dispatch (To 61): 61, at 1538.

EMS Dispatch (Operator conversations): Code 3 to Emanuel now
with a 99. So she
died on them.

51 (To EMS Dispatch): Yeah, I'm going to be 10-7. I'm gonna
follow my partner in, he's with 61,
he's riding to Emanuel.

EMS Dispatch (Operator Conversations): At 1539. Now half of
51's riding in the
ambulance, probably
pumping on her.
Well, he went Code 1
originally, maybe the
Rescue just went
home.

61 (To EMS Dispatch): 61, 10-64

EMS Dispatch (To 61): 61, 1540.

EMS Dispatch (Operator conversation): She was foaming at the
mouth. They transport
Code 1 to the hospi-
tal, all of a sudden
51 clears Emanuel,
says "we're going."
Weird.

AA 51 NOT OUT OF SERVICE

*AA Ambulance
Ephraim # 2*

EMS Rule 6310320(F)

Immediate response authorized if:

<u>Requirement</u>	<u>Fact</u>
1. Information required Telephone # of caller Location of emergency Nature of emergency Responder unit # Location from which responding Source: Licensee's dispatcher to relay information	Information given Caller: AA 61 Location: 7th & Alberta Nature: Need a Code 3 backup Responder: AA 51 Responding from: Emanuel Hospital Source: AA 51, on direction of AA Dispatch, followed by EMS calling AA Dispatch to confirm
2. Call in licensee's service area	In AA's service area
3. Licensee has over 50% of ambulances available	AA had over 50% of ambulances available
4. Licensee uses triage guide to determine whether emergency response is appropriate	Triage guide is silent
5. EMS Dispatch may cancel	EMS Dispatch did not cancel
6. Provisions do not apply where crew determines there is a need for one or more additional vehicles	Applies to multiple casualty incidents, which this was not

(6) EMS Dispatch will request the nearest advance life support ambulance to the appropriate freeway entrance to respond to calls on freeways or limited access highways within Multnomah County

(7) If an ambulance comes upon a seriously ill or injured person in another licensee's service district, the ambulance may treat and transport the patient if, after notifying the EMS Dispatch, it is determined that an ambulance has not been dispatched to the call. Otherwise the ambulance may provide treatment until the ambulance dispatched by EMS Dispatch arrives on the scene. [EMS 2-84, 29/5/84]

(F) Standing Authorization to Respond. A licensee shall be deemed to have a standing authorization to respond by ambulance to any emergency call received by the licensee, and may, accordingly, immediately respond to the call, provided that:

(1) The licensee's dispatcher relays the information required in paragraph (B) of this rule, including the unit number of the ambulance, and the location from which it is responding, to EMS Central Dispatch immediately after dispatching the ambulance. [EMS 3-80, 1/12/81; EMS 5-82, 11/15/82]

(2) The call is in the licensee's ambulance service area; and, [EMS 3-80, 1/12/81; EMS 5/82, 11/15/82]

(3) The licensee has more than 50% of its ambulances available within its ambulance service area. [EMS 3-80, 1/12/81; EMS 5-82, 11/15/82]

(4) A licensee shall utilize the triage guide adopted under these rules in determining whether a call requires an emergency response. [EMS 3-80, 1/12/81; EMS 5-82, 11/15/82]

(5) EMS Central Dispatch may cancel any ambulance dispatched by a licensee under this standing authorization rule. [EMS 3/80, 1/12/81]

(G) The provisions of paragraph (F) of this rule shall not apply where an ambulance crew determines that there is a need for one or more additional vehicles at the scene of an emergency. Where such a determination is made, the ambulance crew shall promptly contact EMS Central Dispatch to request the additional vehicles. The crew shall advise EMS Central Dispatch of the number and type of units needed. [EMS 3-80, 1/12/81; EMS 1-81, 2/23/81; EMS 3-81, 7/27/81; EMS 5-82, 11/15/82]

(A) Helicopter ambulance services should be utilized when it is determined, after consultation with the medical resource hospital, that transport of a seriously ill medical patient would be more advantageous by helicopter than by ground ambulance.

(B) Dispatch procedures:

(1) Helicopter ambulance services will be requested through the EMS Dispatch Center at the Bureau of Emergency Communications.

(B) Receipt of Emergency Calls. Except as otherwise provided in paragraph (F), upon receipt of a request for emergency medical assistance, a licensee shall immediately relay the following information to EMS Central Dispatch:

- (1) The location of the emergency;
- (2) The nature of the emergency;
- (3) The telephone number of the caller.

The above information shall be relayed by telephone connected directly and exclusively to EMS Central Dispatch.

(C) Communications Between Responding Ambulances and Central Dispatch. Where a dispatch order has been issued by EMS Central Dispatch, the following information shall be relayed to EMS Central Dispatch by radio, for each ambulance responding:

- (1) When an ambulance is dispatched from other than its station, its location shall be identified.
- (2) When the ambulance is en route to a hospital or other medical facility, the number of patients being transported, the response code (see Exhibit B) and the identity of the hospital or facility shall be stated.
- (3) When an ambulance does not transport a patient, the reason for this action shall be identified.

(D) Move-ups. An ALS ambulance shall be directed by EMS Central Dispatch to stand by in a service area not adequately covered. An area is not adequately covered when 25% or less of the assigned licensee's ambulances are available for service in that area. Licensees shall advise EMS Dispatch whenever an ambulance is sent to stand by at another location. Licensees shall not be reimbursed for such standby status. [EMS 3-80, 1/12/81; EMS 5/82, 11/15/82]

(E) Dispatch Policy - Ambulance Service Areas. For the efficient and effective provision of ambulance service and in accordance with MCC 6.31.037 and the plan authorized thereby, the ambulance service areas shown on the attached plan map are adopted. The map is hereby incorporated into these rules as if fully set forth herein. The following shall apply to the dispatch of emergency ALS ambulances by EMS Central Dispatch. [EMS 3-80, 1/12/81; EMS 5-82, 11/15/82]

- (1) EMS Central Dispatch shall use the ambulance service areas shown on the plan map when dispatching ALS ambulances. [EMS 3-80, 1/12/81; EMS 5-82, 11/15/82]

AA 51 OUT OF SERVICE

EMS Rule 631-316

Authorizes taking a vehicle out of service if:

Requirement

Fact

More than 8 ALS-staffed ambulances available for calls

More than 8 ALS-staffed ambulances available for calls

EMS Rule 631-314(1)

Requirement

Fact

Requires vehicle crew to advise EMS Central Dispatch when it goes out-of-service (no longer available to respond to dispatch orders from EMS Central Dispatch).

AA 51 notified EMS Central Dispatch that it was backing up AA 61, Code 3, at 7th and Alberta. Subsequently notified EMS Central Dispatch it was out of service following partner to Providence, partner being in AA 61.

EMS Rule 631-320(E)(5)

Authorizes a BLS ambulance to respond Code 3:

Requirement

Fact

1. ALS ambulance requests additional manpower
2. ALS ambulance transports patients
3. Information required
 - Responder unit #
 - Location from which responding
 - Location of emergency
 - Source: Licensee

- AA 61 requested a Code 3 backup
- AA 61 transported patient
- Information given
 - Responder: AA 51
 - Responding from: Emanuel Hospital
 - Location: 7th & Alberta
 - Source: AA 51

631-316

Current rule 631-316 [EMS 3-80, December 1, 1981; EMS 1-81, February 23, 1981; EMS 5-82, November 15, 1982] is deleted in its entirety.

The following wording becomes rule 631-316 Taking Vehicle Out of Service. A licensee's ambulance may be taken out of service to the EMS Central Dispatch system if there are more than eight licensed ALS-staffed ambulances available for calls in Multnomah County. If eight or fewer ambulances are available, the operator must request of EMS Central Dispatch permission to remove ambulances from being available. A standby station procedure is to be initiated by EMS Central Dispatch whenever there are eight or fewer ALS ambulances available. Standby station locations are to be determined by the EMS office with advice from the Provider Board. The standby station may be staffed with an out-of-area provider's ambulance by a mutual aid contract. Each licensee is responsible for all response time for calls which originate in his area.

631-312 Cancellation. Only EMS Central Dispatch may cancel or revise a dispatch order. Vehicles arriving at an emergency scene shall promptly advise EMS Central Dispatch of information relevant to whether a dispatch order should be cancelled or revised. A vehicle which receives a cancellation order may continue to the scene of an emergency; provided that EMS Central Dispatch is so advised and the vehicle's emergency lights and sirens are not employed. [EMS 3-80, 1/12/81]

631-314 Status Changes. The crew of each vehicle shall promptly inform EMS Central Dispatch of the following changes in status by radio:

- (A) In service at station;
- (B) In service out of station (location or destination shall be stated);
- (C) In service at scene of emergency;
- (D) En route to emergency scene;
- (E) Arrived at emergency scene;
- (F) En route to hospital or medical facility from emergency;
- (G) Arrived at hospital or facility from emergency scene;
- (H) Returned to service;
- (I) Out of service (no longer available to respond to dispatch orders from EMS Central Dispatch.) [EMS 3-80, 1/12/81]

12-15 86
631-316 Taking Vehicle out of Service. A licensee's ambulance may be taken out of service to the EMS Central Dispatch System if at least 50% of the licensee's ALS ambulances will remain available for service in the licensee's service area. In such event, the Central Dispatch Office shall be advised of the reason for this action and the vehicle's destination. Licensees who have only one ambulance serving an ambulance service area may take that ambulance out of service to the EMS Dispatch System. [EMS 3-80, 1/12/81; EMS 1-81, 2/23/81; EMS 5-82, 11/15/82]

631-318 Codes. Vehicle crews shall use the 10-codes attached hereto as Exhibit "C" when communicating with EMS Central Dispatch. [EMS 3-80, 1/12/81]

631-320 Ambulance Dispatch. The following apply to licensees which operate emergency ambulances:

- (A) Ambulance Station Telephones. Each ambulance station shall be equipped with a telephone connected directly and exclusively with EMS Central Dispatch.

(2) Emergency call: The licensee's nearest ALS ambulance within the licensee's ambulance service area shall be dispatched to an emergency call if more than 50% of a licensee's ALS ambulances are available for service in the licensee's ambulance service area. Otherwise EMS Dispatch shall send the nearest ALS ambulance to the emergency regardless of ambulance service area. [EMS 3-80, 1/12/81; EMS 5-82, 11/15/82]

(3) Licensee's ALS ambulance crew may request a BLS ambulance to transport a patient if the following conditions are met:

(a) The ALS crew on the scene determines that the patient does not need emergency transport to a medical facility in an ALS ambulance.

(b) The licensee's BLS ambulance is able to arrive within 10 minutes of being dispatched to the scene.

(c) In the event that a BLS ambulance is called under the rule above, the patient shall only be billed for one ambulance and one base fee. [EMS 5-82, 11/15/82]

(4) EMS Dispatch may request an Advanced Life Support Ambulance from outside Multnomah County to respond into Multnomah County to a medical emergency under the following conditions:

(a) The expected response time of the ambulance in Multnomah County exceeds ten minutes; and

(b) The out-of-county ALS ambulance is closer to the emergency than any Multnomah County ambulance.

(c) For the purposes of this rule, an Advanced Life Support ambulance from another county is any ambulance which meets the requirements for an ALS ambulance as established by the State Health Division. [EMS 5-82, 11/15/82]

(5) Licensee's BLS ambulance may respond Code-3 to the scene of an emergency under the following conditions:

(a) An ALS ambulance requests additional manpower at the scene of an emergency and the ALS ambulance transports the emergency patients; or

(b) Licensee determines that its BLS ambulance is near the scene of the emergency and can arrive before the ALS ambulance.

(c) Licensee advises EMS Dispatch by radio or telephone of the number of the unit responding, the location from which the unit is responding and the location of the emergency.

1
8/23/88

EXHIBITS

1. Complaint re: AA Run #691/208769
2. Letter of May 19, 1987 from Joe Acker III, Director of Emergency Medical Services to AA Ambulance.
7. Letter of September 15, 1987 from Joe Acker III to AA Ambulance
8. Letter of November 13, 1987 from Chris Thomas, Attorney for AA Ambulance
9. Letter of December 2, 1987 from B.B. Bouneff to Mr. Thomas
10. Letter of December 4, 1987 from Mr. Thomas to Mr. Acker
11. EMT Reports
- 12a. Incident Reports of AA Ambulance EMT Filler
- 12B. Incident Report of AA Ambulance EMT Hernandez
14. EMS Central Dispatch Chronology
16. Letter of June 4, 1987 from Chris Thomas to Joe Acker III
17. AA Tape Transcription Case #87-30
18. EMS Tape Transcription #87-30
19. Death Certificate
20. Tape of EMS transmissions (prepared by EMS)
21. Tape of AA transmissions (prepared by EMS)
22. Tape of AA transmissions (prepared by AA)



CONFIDENTIAL

Emergency Medical Services

Multnomah County · City of Portland · Fairview · Gresham · Troutdale · Wood Village

COMPLAINT NUMBER 30

TODAY'S DATE: 4-14-87

COMPLAINANT: _____

ADDRESS: _____ 97201

PHONE NUMBER: _____

DATE OF INCIDENT: 4-13-87

TIME: between 2 and 5 p.m. 3:04 p.m.

LOCATION: N.E. 6th

ORGANIZATIONS INVOLVED: AA Ambulance

COMPLAINT: Pl's name: _____ - Age ~~36~~ 36. DOB 10-13-50

Kidney Failure pt. Paramedics asked her to walk to ambulance, she expired on way to hospital. (Emanuel)

asked friend to carry a chair behind her in case she had to rest. A&S. "Frothing at the mouth - foam" couldn't take.

4/20 Talked to Clyde Watts to confirm who transported & time of day. Letter to request PCR. Recd. 4/24.

4/21 letter to Emanuel to request EE record.

Was finally dispatched 4/27 - Memo to Tom for info. Recd. 5/5

5/5 Recd. Death Certificate from Vital Records

Attempt to reach friend - unsuccessful -

friend will use him to call EMS if she is in need of help.

5/5 Joe is present to QA. Letter to AA 5/19 - Response requested.

5/21 letter to M. Sequin - " " - Recd June '87

[MW-1425E-p]

Recd AA Dispatch Tape 6/4

6/87 - Closed

Department of Human Services
426 S.W. Stark Street - 8th Floor - Portland, Oregon 97204 - 248-3220

EXHIBIT 1 - page 1

APR 20 1987

April 16, 1987

Commissioner Dick Bogel
City Hall
1220 SW Fifth Avenue
Portland, Oregon 97204

CONFIDENTIAL

Attention: Steve Manton

Re: 911 Ambulance Response, April 13, 1987
to 5818 N.E. Sixth, Portland 97211, Renee Goldsby

Dear Mr. Manton:

As you suggested in our telephone conversation of April 14th regarding the above matter, I called Joe Acker, Director of Emergency Medical Services and told him of the manner in which the above emergency call had been handled resulting in the death of . Mr. Acker said that he would look into it and said that he would advise me of the outcome but that it would most likely take at least two months.

Yesterday I spoke with . sister and was told that not only did the ambulance drivers have walk out to the ambulance barefoot and with no robe or coat, but that friend who followed them out to the ambulance carrying a chair at the direction of the ambulance crew to use "in case she gets too tired," said that the ambulance crew had, only moments earlier, used electrical paddles to revive and injected her with epinephrine.

Additionally, told me that had told the ambulance drivers to take to Providence Hospital and then he had called and advised her that that is where her sister would be. rushed to Providence only to be told that they knew nothing about it. According to it took them approximately a half an hour to locate where they had taken

The people with when this happened were her friend and her neighbors, who lives next door and who lives across the court.

had been an excellent tenant for a number of years and was always happy and cheerful despite her many illnesses. She was extremely well-liked by everyone in the complex and they, as well as we, the owners, and terribly upset at how this emergency, resulting in the loss of her life, was handled. I

EXHIBIT 1- page 2

hope your office will not let this terrible episode slip by
without some responsible action.

Sincerely

Portland, Oregon 97219

(503)

cc: Joe Acker, Director EMS

Portland 97212

and .



Emergency Medical Services

Multnomah County · City of Portland · Fairview · Gresham · Troutdale · Wood Village

May 19, 1987

Pete Robedeau
AA Ambulance
401 NE Weidler
Portland, Oregon 97232

Case #87-30

Dear Pete:

We are reviewing an AA Ambulance response to 18 NE 6th on 4/13/87, at approximately 1524 hours.

It appears that this was a self-dispatch to assist a second Advanced Life Support unit. Radio tapes from the Bureau of Emergency Communications state that AA Ambulance 51 responded to that location to assist AA 61. This response was a Code 3 response.

This response, if it was made, is a violation of Multnomah County Code 631-390C.

Please furnish me, as soon as possible, the patient care report for the second ambulance, a copy of the radio tape concerning the request by AA 51 and AA 61 with regard to this case.

This information is requested under the 631-050.

Sincerely,

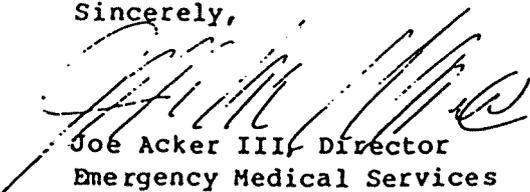

Joe Acker III, Director
Emergency Medical Services

EXHIBIT 2

[MW-3069E-w]



Emergency Medical Services

Multnomah County · City of Portland · Fairview · Gresham · Troutdale · Wood Village

September 15, 1987

Peter Robedeau, Owner
AA Ambulance
401 NE Weidler
Portland, OR 97232

Notice of Fine

Dear Mr. Robedeau:

The Office of Emergency Medical Services has conducted an investigation of the AA Ambulance response to NE 6th, on 4/13/87, at approximately 1524 hours. Your records indicate this is Run 208769A and was made to 7th and Alberta Streets.

You provided us taped information, as well as patient care reports. The information you provided to us and information from the Bureau of Emergency Communications has demonstrated that AA Ambulance responded to an emergency call in violation of Multnomah County Code (MCC) and EMS rules.

AA 51 responded code 3 to assist AA 61. This was a self-dispatch of a code 3 ambulance with no ambulance company dispatcher notification to EMS dispatch. The County code Chapter 6.31.390(c) and EMS rules very clearly provide a procedure for this type of response. They require that the ambulance company dispatcher notify EMS if there is a response to a code 3 call. Also a licensee may not respond to a code 3 call without EMS dispatch approval. MCC 6.31.190(f) and (g) require that the ambulance company dispatcher notify EMS if there is a response to a code 3 call. Also a licensee may not respond to a code 3 call without EMS dispatch approval. In the event a second or more ALS code 3 ambulances are needed by the EMT he only has to voice the request to EMS Dispatch. to 911

The results of this improper dispatch are that the closest, most appropriate responder may not have been sent thereby jeopardizing patient outcome. A police incident which was occurring in the area was confused with the EMS incident causing concern on the part of EMS and police dispatch. EMS Dispatch was unaware of the reason for AA 51's code 3 response when they "radioed in" and were afraid they were responding to a "fight in progress" and might be in danger. The improperly communicated response may have endangered the patient and ambulance crew. This violation of the MCC and EMS rules is punishable by a fine.

Peter Robedeau

September 15, 1987
Page 2

The purpose of this letter is to notify you that AA Ambulance Service is hereby fined \$250 for the violation of EMS Rule 6.31.390(C) and MCC 6.31.190(F)&(G). A copy of the pertinent ordinance and rules is attached to this notice.

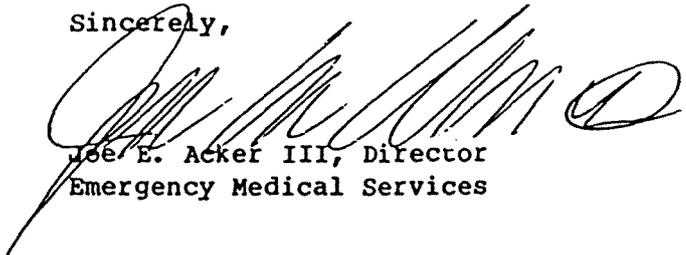
I have reviewed the material provided to me by your attorney, Chris Thomas. This material was in the form of a letter dated June 4, 1987. After reading the issues raised by Mr. Thomas, I do not consider them pertinent to this case.

Appeals Procedure

This fine may be appealed under MCC 6.31.180, 6.31.182, or 6.31.184. These sections require a person appealing a fine to request a hearing by filing a written notice with the Director within 60 days of receipt of this notice. The notice appealing the fine shall set forth reasons for the hearing and the issues to be heard. On receipt of a timely request for hearing, the Director will promptly notify the hearings officer and within five business days set a time and place for the hearing which shall not be more than 30 days from the date of receipt of the request for a hearing.

A hearing will be conducted by the hearings officer in accordance with the Attorney General's Model Rules of Procedure. The hearings officer shall issue a proposed final order as soon as practical after the termination of the hearing. The Policy Board shall notify the provider of the date when written exception to the proposed order may be filed and the date when oral argument may be made to the Board. The Policy Board may accept, modify, or reject the proposed final order. The Policy Board may reconsider the final order upon the filing of a petition for reconsideration within 15 days after issuance of the order.

Sincerely,



Joe E. Acker III, Director
Emergency Medical Services

cc: Gary Oxman, MD
Larry Kressel, County Counsel
Mark Heimann

CHRISTOPHER P. THOMAS

ATTORNEY AT LAW
2000 S.W. 1ST AVENUE
SUITE 400
PORTLAND, OREGON 97201
TELEPHONE (503) 227-1116

NOV 16 RECD

November 13, 1987

Mr. Joe E. Acker, III
Director of Emergency Medical Services
8th Floor
426 SW Stark Street
Portland, OR 97204

Subject: Appeal of Notice of Violation

Dear Mr. Acker:

AA Ambulance hereby appeals the notice of violation issued by you and dated September 15, 1987. AA Ambulance received the notice on September 17, 1987.

It is the position of AA Ambulance that the response of AA 51 to a request for a driver by AA 61, so that AA 61 driver could assist the other AA 61 crew member, was authorized by the Multnomah County Code and by the EMS rules and was conducted properly thereunder. Since you have concluded that the Multnomah County Code and EMS Rules did not authorize the response, AA Ambulance is requesting an appeal hearing. At the hearing, the issue will be whether, on the facts of this case, the Multnomah County Code and EMS rules authorized the response by AA 61 and whether the response was conducted properly thereunder.

Very truly yours,

C. P. Thomas

Christopher P. Thomas

CPT:mab
cc: Pete Robedeau

EXHIBIT 8

BOUNEFF, CHALLY & MARSHALL

ATTORNEYS AT LAW

THE LOGUS BUILDING

529 S.E. GRAND AVENUE

PORTLAND, OREGON 97214-2276

TELEPHONE (503) 238-9720

B. B. BOUNEFF
JOHN CHALLY
NEIL T. JORGENSEN*
TYLER MARSHALL
W. G. KELLY CLARK
MARCIA A. PERKINS
DON THACKER*
LISA M. MAYFIELD
GARTH T. GALYON
RICHARD S. DIAZ

*ADMITTED IN
WASHINGTON AND
OREGON

IN REPLY REFER TO OUR
NUMBER

87-469-85

December 2, 1987

~~Mr. Christopher P. Thomas
Attorney at Law
2000 S.W. 1st Avenue
Suite 400
Portland, Oregon 97201~~

Re: Emergency Medical Services
Notice of Fine to A.A. Ambulance

Dear Mr. Thomas:

I have been contacted by Emergency Medical Services and requested to act as Hearings Officer. The request for a hearing was made because of the appeal made by A.A. Ambulance from a fine levied by letter of September 15, 1987, from Emergency Medical Services.

Based upon the information given to me, the hearing is set for Wednesday, December 16, 1987 to commence at 9:30 a.m. in the conference room in my office at the above indicated address.

This letter will serve as notice to you, as representative of A.A. Ambulance, and to the personnel of Emergency Medical Services as to the time and place of the hearing. In the event that there may be a need for a resetting, I would appreciate both parties contacting me as soon as possible.

Very truly yours,

B. B. Bouneff

BBB:lm
cc: Emergency Medical Services ✓
0713Lt.6

EXHIBIT 9

CLIENT'S COPY

CHRISTOPHER P. THOMAS

ATTORNEY AT LAW

2000 S.W. 1ST AVENUE

SUITE 400

PORTLAND, OREGON 97201

TELEPHONE (503) 227-1116

File
Punch

December 4, 1987

Mr. Joe E. Acker, III
Director, Emergency Medical Serv.
8th Floor
426 SW Stark Street
Portland, OR 97204

Subject: AA Ambulance: Rule Violation Hearing

Dear Joe:

This will confirm that the hearing requested in my letter of November 13, 1987 will be held at 9:00 a.m. on December 21, 1987, at the office of Bob Bouneff, hearings officer, 529 SE Grand Avenue, third floor. This also will confirm that the hearing has been rescheduled from an earlier setting (December 16) at my request, and that AA Ambulance has waived the 30 day time requirement.

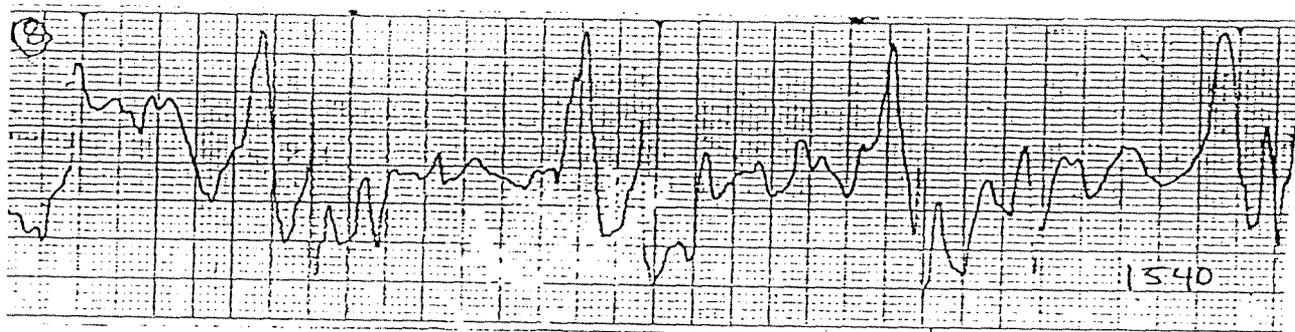
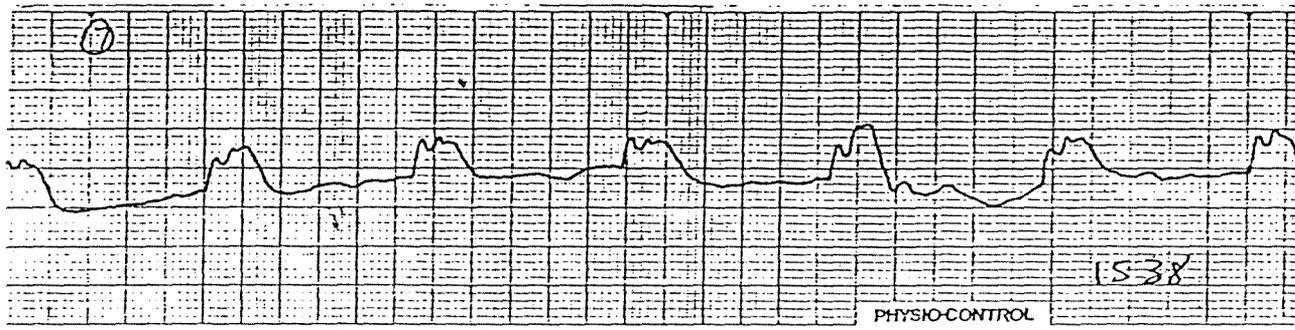
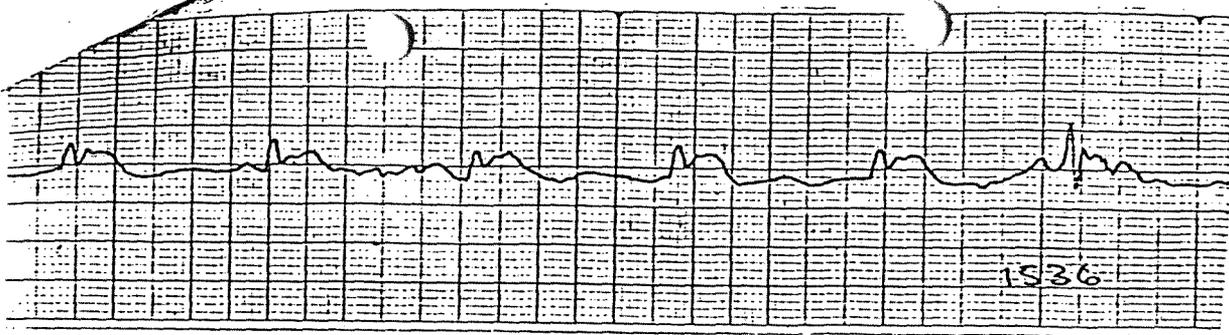
Very truly yours,

Ch. P. Thomas

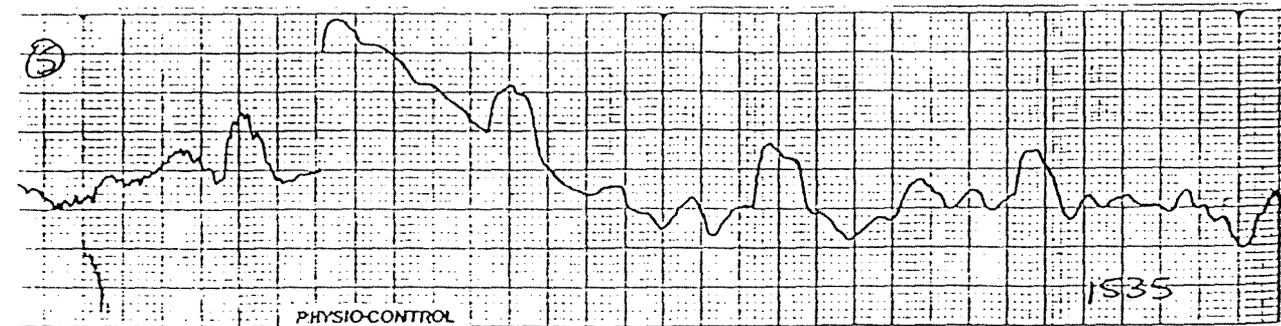
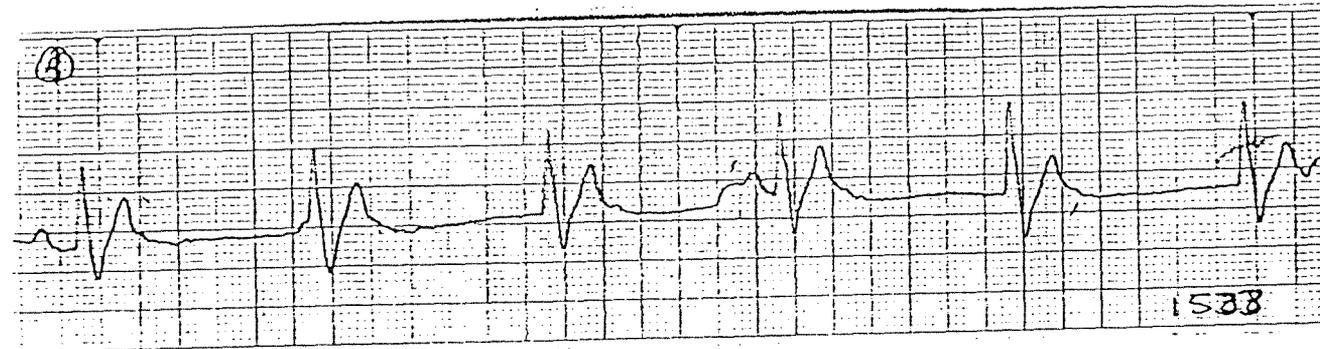
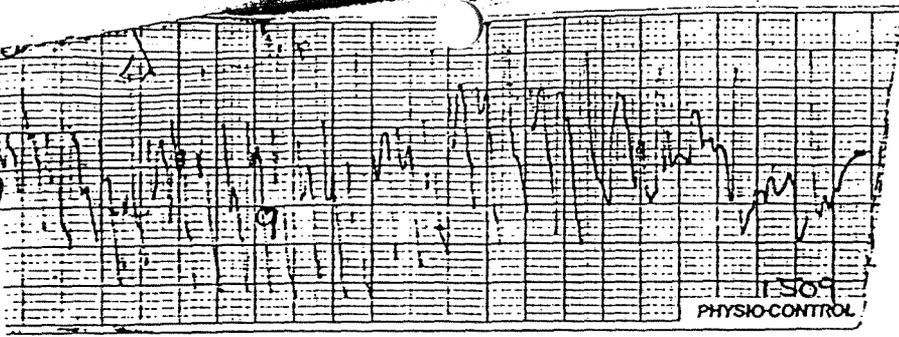
Christopher P. Thomas

CPT:mab
cc: Pete Robedeau

EXHIBIT 10



4/13/87
691/208765
LII



CONFIDENTIAL

EXHIBIT 11-page 3

INCIDENT REPORT

DATE OCCURRED: 4/13/87

TIME:

INVOICE:

REGARDING: Pt. 691/208769

FROM: Eileen Filler

TO: Pete Robedeau, Dr. Sequela

INCIDENT: We were sent C-3 by EMS on an unknown problem.

On arrival we found pt. laying on bed in dark room. She was conscious, alert, oriented, very excited and appeared to be shivering as though cold. Her skin was warm and dry, color good, lungs were clear except for faint upper lobe wheezes. She had a history of emphysema and heart.

Pt. denied any unusual shortness of breath, chest pain, nausea and vomiting or any other complaint or discomfort except shivering.

In response to QA questions:

#1) Treatment in house included exam, heparin lock, blood draw, EKG.

#2) Pt. initially was in dark bedroom. When initial exam, including EKG, produced no ~~life-threatening~~ findings, pt. was asked to move to living room (5-8 ft.) to allow more thorough exam with better light. Pt. started heading for door and had to be directed to couch so exam could be completed.

When preparing to get stretcher pt. stated she would walk out. I asked her if she was sure, and she insisted yes.

SIGNED:

DATE:

SIGNED:

DATE:

INCIDENT REPORT

DATE OCCURRED: 4/13/87

TIME:

VOICE:

DEPARTING: Pt. - *

691/208769

FROM: Eileen Miller

TO: Pete Robedean, Dr. Sequeira

INCIDENT:

#2 cont.) My partner and I walked beside her and friend was asked to follow with chair (In case tremors increased)

By now tremors had diminished considerably, heart rate and respiratory rate had decreased and pt. was calmer.

Pt. arrived at ambulance without difficulty.

Rough copy of chart was received and I missed transfer that line.

#3) First responders left after initial exam in bed room.

#4) Medications and level of care were appropriate to each level of pt. progressing per protocol.

#5) We were en route to Providence hospital when pt. began having seizure. I had my partner stop and come back to help me position pt. ~~and~~ before continuing to Providence.

Seizure stopped while he was in back and we noted pt. was now apneic and bradycardic.

An airway was placed, BVM ventilation started, D5W

DENSED:

DATE:

SIGNED:

DATE:

EXHIBIT 12a - page 2

INCIDENT REPORT

DATE OCCURRED: 4/13/87

TIME:

INVOICE:

REGARDING:

691/208769

FROM: Eileen Filler

TO: Pete Robedeau, Dr. Sequerra

INCIDENT:

#5 cont.) attached to existing hip lock. Atropine was administered and backup was called during these activities since it was now apparent that care could not be adequately provided by one tech. Pt. continued to rapidly deteriorate and further medications were administered, pt. was suctioned and intubation was attempted since it was difficult to maintain good ventilations with mask and airway only. Pt. fully arrested and CPR was started just prior to arrival of second crew.

Times as indicated by flow chart are misleading since more than one watch was used during this call.

#6) Pt. did not have frothy sputum as one would from pulmonary edema, nor any cough, lung sounds were essentially clear.

This pt. appeared to be shivering as though cold. At one some times does when shivering, her lips also had tremors and this produced spitting but not frothy sputum.

#7) Backup arrived and one member drove us to Emanuel after they checked to see if we needed anything in back. They performed no medical procedures.

SIGNED:

DATE:

SIGNED:

DATE:

INCIDENT REPORT

DATE OCCURRED: 4/13/87

TIME:

INVOICE:

REGARDING:

691/208769

FROM: Eileen Miller

TO: Pete Robedeau, Dr. Sequerra

INCIDENT:

#8) My initial thinking was that pt might be exhibiting some type of bizarre response to one of her medications, Navane or Theodor seemed the most likely suspects. Drug reaction seemed to be the most consistently reasonable explanation for the pt initial presentation and ultimate progression.

At no time prior to the seizure did the pt have any signs decreased mental status or other symptom that might indicate need for D50 or Narcan. Neither did we find any sign of OD, a pt denied the possibility - there seemed to be no indication for ipecac.

As a precaution we did do a blood draw and placed a heparin lock.

SIGNED: Eileen J. Miller

DATE: 5/30/87

SIGNED:

DATE:

INCIDENT REPORT

101

DATE OCCURRED: 4-13-87 TIME: INVOICE:

REGARDING: 6911/208769

FROM: Tony Hernandez

TO: Dr. Sequeira, Pete Robedean

CONFIDENTIAL

INCIDENT: ① Initial Treatment at pts House was, Exam, ECG, Blood Draw & Heparin lock.

② When my partner & I began to discuss getting gurney for Pt, she (the Pt) stated that gurney was not needed that she wanted to walk. Pt was insistant.

③ First responders were not cancelled prior to V/S. They were told they could leave (per usual) after pt assesment including V/S were completed.

④ All medications & care delivered to pt were appropriate @ each stage. Multnomah County Protocols were followed.

⑤ Back up was called several minutes after a stop at side of road when pt began to seize. Post seizure pt's respiratory & cardiac deteriorated & it became evident to us that one tech in the back could not be able to handle all procedures that needed to be done.

⑥ Pt had no frothy sputum as seen in a CHF type problem. Pt was actually spitting saliva.

⑦ Second ALS ambulance arrived the first tech at our back doors ask what needed to be done,

over-

DENIED: Tony Hernandez DATE:

SIGNED: DATE:

INCIDENT REPORT

DATE OCCURRED: 4-13-87

TIME:

INVOICE:

REGARDING:

691/208769

FROM: Tony Hernandez

TO: Dr. Sequiera, Pete Robideau

INCIDENT:

He was directed to drive us C-3 to Emanuel
 ⑧ Assessment of drug reaction was used as it
 seemed the most likely possibility after sudden proggre
 sion into cardiac arrest, again in retrospect this was
 most consistent & reasonable explanation. No D50 or Norcan
 were indicated 2° to pt being CAOX3 & not exhibiting
 signs of A.M.S. or O.D.

For very detailed explanation, see accompanying I.R.
 from my partner.

SIGNED: Tony Hernandez

DATE:

SIGNED:

DATE:

EXHIBIT 12 h mae 2

DATE: May 14, 1987
TO: Joe Acker
FROM: Larry Johnson *fy*
SUBJECT: Incident # 691, 4/13/87

Here is the information, printouts, and tape of the call you requested:

Incident #: 691
Date: 4/13/87
Location: NE 6th

1524 - AA 61 enroute to Providence Code 1
1530 - AA 51 informs EMS that they are enroute to 7th & Alberta to assist AA 61
1532 - EMS calls AA dispatch to find out what AA 51 is doing
1538 - AA 61 enroute to Emanuel Code 3
1539 - AA 51 out-of-service because partner is with AA 61
1540 - AA 61 arrives at Emanuel (1540:54)

EXHIBIT 14

T.S.

CHRISTOPHER P. THOMAS

ATTORNEY AT LAW
2000 S.W. 1ST AVENUE
SUITE 400
PORTLAND, OREGON 97201
TELEPHONE (503) 227-1116

June 4, 1987

JUN 4 1987

Mr. Joe Acker, III
Director, Emergency Medical Services
8th Floor
426 SW Stark
Portland, OR 97204

Subject: Case #87-30

Hand Delivered

Dear Mr. Acker:

This in response to your letter dated May 19, 1987, which was postmarked May 22 and received May 26. In the letter, you requested a copy of the patient care report for the second ambulance, AA 51, that was involved in the case about which you are inquiring. I enclose a copy of the patient care report. You also requested "a copy of the radio tape concerning the request by AA 51 and AA 61 with regard to this case." I assume you are requesting a copy of the tape of the AA 61 call that led to AA 51 being sent to meet AA 61 and have asked AA Ambulance, under separate cover, to provide you with a copy.

You suggested in your letter dated May 19 that if AA 51 was a self-dispatch to assist AA 61, then there was a violation of MCC 631-390C. Actually, the citation should be to EMS Rule 631-390 (C). AA Ambulance does not believe there was a violation in this case, for the following reasons.

EMS Rule 631-390(C) states that no licensee may respond by ambulance to an emergency call unless so authorized by the EMS Central Dispatch Office. The question is how this relates to the facts of this particular case. Here, the patient went into cardiac arrest in AA 61 on the way to the hospital. The ambulance driver stopped the ambulance to assist the other crew member and called for another driver. AA sent AA 51 to provide a driver, notifying EMS Central Dispatch this was occurring. AA 51 delivered the driver and then followed AA 61 to Emanuel Hospital, picked up the driver, and returned to the AA facility. AA 51 did not provide patient care. AA 51 was out of service for 15 minutes.

We believe that EMS Rule 631-390(C) is not applicable to this case. Prior to the adoption of EMS Temporary Rule 1-86-A, we believe this situation would have been covered by EMS Rule 631-320. Subsection (E)(5) of that rule allowed a provider to

EXHIBIT 16-page 1

Mr. Joe Acker, III
June 4, 1987
Page Two

dispatch directly a BLS ambulance Code 3 to the scene of an emergency if an ALS ambulance requested additional manpower and transported the patients, and if the provider notified EMS Dispatch by radio of the dispatch. Subsection (F) gave a provider standing authority to respond directly to an emergency call if the provider notified EMS Dispatch by radio of the dispatch, the call was in the provider's service area, and the licensee had more than 50% of its ambulances available within its service area. Subsection (G) took away the provider's subsection (F) authority when an ambulance crew arrived at the scene, discovered it was a mass casualty case, and determined there should be multiple ambulances. In that case, dispatch had to be by EMS Central Dispatch.

In 1986, EMS Temporary Rule 1-86-A repealed EMS Rule 631-320(E) and replaced it with a temporary rule. Subsection (4) authorizes a provider, in its discretion, to use its ambulance for Code 1 or Code 3 approved calls until there are only eight available system ambulances. Read in light of the predecessor rule 631-320(E), we believe this authorizes a direct response within a provider's service area to a Code 3 call as long as there are nine system ambulances available. That was the case here. On this basis, the dispatch of AA 51 was proper.

Furthermore, EMS Rule 631-320(F) was not repealed by EMS Temporary Rule 1-86-A. On December 15, 1986, the EMS Policy Board adopted a new Rule 631-316, relating to taking vehicles out of service. That change, however, did not change Rule 631-320 (F). We believe that subsection (F) also authorized the dispatch that occurred here.

Finally, if EMS Temporary Rule 1-86-A is no longer effective because of an automatic expiration, then EMS Rule 631-320(E) is back in effect. It is arguable that subsection (E) also authorized the dispatch that occurred here.

Joe, one thing I have seen from my review of this case is that the revisions to the 50 percent rule were not complete; that the December 15, 1986 EMS Policy Board action regarding EMS Rule 631-316 did not address the change made by EMS Temporary Rule 1-86-A, which means that either the temporary rule still is in effect or Rule 631-320(E) is back in effect; and that the dispatch rules, as a result of all of this, are a mess. It is most disturbing to see this entire area of rulemaking having been handled so poorly.

In further response to your letter dated May 19, I gather that you have not found a violation to have occurred, but merely have requested information. If you do make a finding of a violation,

EXHIBIT 16-pages

Transcript -- AA Tape, 51-61 Case 87-30, 04/13/87

<u>Tape</u>	<u>Marker #</u>	<u>Voice</u>	<u>Copy</u>
	002	AA	Time presently is 1529, 4/13/87
	005	AA	*unreadable* ...down the street * *
		61	61
		AA	Go ahead 61
	013	61	61 arrived... you got any cars in the area, we need a Code 3 backup.
		AA	Copy
		51	Does anyone know if seizure prior to call or after?
		61	* unreadable *
	031	51	Go ahead
		AA	Better get them back in district
	033	EMS	51, copied you clear of Emanuel but I didn't get the rest...
		51	We're going to that call on 7th and Alberta (to EMS)
		51	En route to 7th and Alberta (to AA)
	037	EMS	At 1541, backing up 61 on 7th and Alberta
		?	Code 3 backup
	043	EMS	7th and Alberta, copy
			long pause on tape
	056	AA	(telephone) ... AA Ambulance
		EMS	Hello, this is EMS
		AA	Hi EMS
		EMS	I'm confused by 51...
		AA	Well, 61 requested Code 3 backup at 7th and Alberta with a patient they were transporting...
	058	EMS	...With the patient they were transporting...
		AA	Yes -- so -- 51's on their way from Emanuel to assist them...
		EMS	...and 61 sort of stopped at 7th and Alberta...
		AA	Yes
		EMS	Ok, that makes more sense.
		AA	Don't feel too bad, I felt the same way you did...
		EMS	There is a disturbance of some kind at 9th and Alberta...
		AA	Oh goody!
	074	EMS	A large gathering of kids, and it's all anonymous, but somebody's supposed to have a knife and somebody's supposed to have a handgun.

EXHIBIT 17. page 1

Transcript -- AA Tape, 51-61

Case 87-30, 04/13/87

<u>Tape</u>	<u>Voice</u>	<u>Copy</u>
075	AA	Oh, jeez ... OK, thanks
	AA	51
	51	51
	AA	51, supposed to be a disturbance call at 9th and Alberta, weapons involved, you might be aware of that situation...

remainder unreadable...

AA (CW) End of tape 1535

EXHIBIT 17 - page 2

Transcript -- EMS tape

Case # 87-30

<u>Tape Count</u>	<u>Voice</u>	<u>Copy</u>
000	61	61, We're Code 1 to Providence
	EMS	61, 1520
008	EMS	Last Unit, say again?
	51	51
	EMS	51, Go ahead
	51	We're clear of Emanuel, we'll be going to * unreadable * at 7th and Alberta...
	EMS	51, I copied you clear of Emanuel, but I didn't get the rest.
	51	* unreadable * ... on that call at 7th and Alberta.
	EMS	Is that a Code 1 ?
	51	A Code-3 backup.
	EMS	7 and Alberta, copy
		[telephone]
	AA	... AA Ambulance
	EMS	Hello, this is EMS
	AA	Hi EMS
	EMS	I'm confused by 51...
	AA	Well, 61 requested Code 3 backup at 7th and Alberta with a patient they were transporting
	EMS	...with the patient they were transporting...
	AA	Yes -- so, 51's on their way from Emanuel to assist them.
	EMS	...and 61 sort of stopped at 7th and Alberta...
	AA	Yes
	EMS	OK, what makes more sense.
	AA	Don't feel too bad, I felt the same way you did.
	EMS	There is a disturbance of some kind at 9th and Alberta...
	AA	Oh, goody!
	EMS	A large gathering of kids, and it's all anonymous, but somebody's supposed to have a knife and somebody's supposed to have a handgun.
	AA	Oh, jeez... OK, thanks
042	EMS	1532 ; They stopped at 7th and Alberta and asked for a Code 3 backup ambulance.... well, that's the closest thing I could figure out.... well maybe a seizure , but.... I don't know why, it must have gone to shit after they started to transport... (operator conversations)
	61	61 calling --

EXHIBIT 18 - page 1

Transcript --EMS tape

Case # 87-30

<u>Tape</u> <u>Count</u>	<u>Voice</u>	<u>Copy</u>
	EMS	61
	61	Yeah, we'll be, uh, 10-62 to Emanuel Code 3, uh, with a Code 99...
	EMS	61, at 1538
067	EMS	(operator conversation) : Code 3 to Emanuel now with a 99... so she died on 'em...
073	51	Yeah, I'm gonna be 10-7, I'm gonna follow my partner in, he's with 61, he's riding in to Emanuel...
	EMS	...at 1539... (conversation) : now half of 51's riding in the ambulance, probably pumping on her...well, he went Code 1 originally, maybe the Rescue just...went home...
112	61	61, 10-64
117	EMS	61, 1540 ... (conversation) : ...she was foaming at the mouth... They transport Code 1 to the hospital, all of a sudden 51 clears Emanuel, says "we're goin'".... wierd.

EXHIBIT 18-page 2

CONFIDENTIAL

STATE OF OREGON
OREGON STATE HEALTH DIVISION
DEPARTMENT OF HUMAN SERVICES
Vital Records Unit

CERTIFICATE OF DEATH

20726

ID TAG NO.

ORS - 146

State File Number

TYPE OR PRINT IN PERMANENT BLACK INK FOR INSTRUCTIONS SEE HANDBOOK

DECEDENT

IF DEATH OCCURRED IN INSTITUTION, SEE HANDBOOK REGARDING COMPLETION OF RESIDENCE ITEMS

DISPOSITION

CERTIFIER

MEDICAL EXAMINER

CONDITIONS IF ANY WHICH GAVE RISE TO IMMEDIATE CAUSE STATING THE UNDERLYING CAUSE LAST

CAUSE OF DEATH

DECEASED - NAME First Middle Last			DATE OF DEATH (month, day, year)		
1			2 April 13, 1987		
RACE White, Black, American Indian, etc. (specify)		SEX	AGE - Last birthday (years)		DATE OF BIRTH (month, day, year)
3 Black		4 Female	5a 36		6 October 13, 1950
CITY, TOWN OR LOCATION OF DEATH		HOSPITAL OR OTHER INSTITUTION - NAME (If not in either, give street and number)		IF HOSP. OR INST. Indicate DOA, OP/Emer. Rm., Inpatient (specify)	
7a Portland		7b Emanuel Hospital		7c ER	
STATE OF BIRTH (If not in U.S.A., name country)		CITIZEN OF WHAT COUNTRY	MARRIED, NEVER MARRIED, WIDOWED, DIVORCED (specify)		COUNTY OF DEATH
8 Ohio		9 USA	10 Divorced		7d Multnomah
SOCIAL SECURITY NUMBER		USUAL OCCUPATION (Give kind of work done during most of working life, even if retired)		KIND OF BUSINESS OR INDUSTRY	
13		14a Clerical 379-060		14b Construction	
RESIDENCE - STATE		COUNTY	CITY, TOWN OR LOCATION	STREET AND NUMBER OR R.F.D.	ZIP
15a Oregon		15b Multnomah	15c Portland	15d NE 6th	15e 97221
FATHER - NAME first middle last		MOTHER - first middle last (Maiden Name)		INFORMANT - NAME and relationship to deceased	
16 Charles		17 Alberta		18 Helen - sister	
BURIAL, CREMATION, REMOVAL, MAUS. (specify)		CEMETERY OR CREMATORY - NAME			LOCATION city or town state
19a Removal/Burial		19b Evergreen Memorial Park			19c Redford Heights, Ohio
FUNERAL SERVICE LICENSEE or person calling as such (Signature)		NAME AND ADDRESS OF FACILITY			
20a [Signature]		20b Lincoln Willamette Funeral Directors, Portland, Oregon 97266			
CERTIFICATION - MEDICAL EXAMINER					
I CERTIFY THAT I MADE INQUIRY INTO THE DEATH OF THE DECEASED PERSON DESCRIBED ABOVE, AND IN MY OPINION DEATH RESULTED ON OR ABOUT:					
DEATH OCCURRED (Hour)		THE DECEASED WAS PRONOUNCED DEAD		FROM:	
21a 4:20 P M		21b April 13, 1987 4:20 P M		21c NATURAL CAUSES <input checked="" type="checkbox"/> ACCIDENT <input type="checkbox"/> SUICIDE <input type="checkbox"/> HOMICIDE <input type="checkbox"/> UNDETERMINED <input type="checkbox"/> PENDING <input type="checkbox"/>	
CERTIFIER (Signature)		NAME AND TITLE - (Type or Print)		DATE SIGNED (Month, Day, Year)	
21d [Signature]		21e LARRY V. LEWMAN, M. D.		21g April 28, 1987	
MEDICAL EXAMINER For		STATE OF OREGON County		21f	
DATE RECEIVED BY REGISTRAR (Mo., Day, Year)		REGISTRAR			
22a MAY 04 1987		22b [Signature]			
23 IMMEDIATE CAUSE (ENTER ONLY ONE CAUSE PER LINE FOR (a), (b) AND (c).)					
PART I (a) CARDIAC ARRHYTHMIA PROBABLY SECONDARY TO HYPERTENSIVE CARDIOVASCULAR DISEASE AND/OR FATTY METAMORPHOSIS OF LIVER					Interval between onset and death
(b) DUE TO, OR AS A CONSEQUENCE OF:					Interval between onset and death
(c) DUE TO, OR AS A CONSEQUENCE OF:					Interval between onset and death
PART II OTHER SIGNIFICANT CONDITIONS - Conditions contributing to death but not related to cause given in PART I (a)					AUTOPSY (Specify Yes or No)
					24 YES
DATE OF INJURY (Month, Day, Year)		HOUR	HOW INJURY OCCURRED (Enter nature of injury in Part I or Part II, Item 23)		
25a		25b	25c		
INJ. AT WORK (Specify Yes or No)		PLACE OF INJURY - At home, farm, street, factory, office building, etc. (Specify)	LOCATION (Street or R.F.D. No., City or Town, County, State)		
25d		25e	25f		

EXHIBIT 19

81-947

Transcript -- AA Tape, 51-61 Case 87-30, 04/13/87

<u>Tape</u>	<u>Marker #</u>	<u>Voice</u>	<u>Copy</u>
	002	AA	Time presently is 1529, 4/13/87
	005	AA	*unreadable* ...down the street **
		61	61
		AA	Go ahead 61
	013	61	61 arrived... you got any cars in the area, we need a Code 3 backup.
		AA	Copy
		51	Does anyone know if seizure prior to call or after?
		61	* unreadable *
	031	51	Go ahead
		AA	Better get them back in district
	033	EMS	51, copied you clear of Emanuel but I didn't get the rest...
		51	We're going to that call on 7th and Alberta (to EMS)
		51	En route to 7th and Alberta (to AA)
	037	EMS	At 1541, backing up 61 on 7th and Alberta
		?	Code 3 backup
	043	EMS	7th and Alberta, copy
			long pause on tape
	056	AA	(telephone) ... AA Ambulance
		EMS	Hello, this is EMS
		AA	Hi EMS
		EMS	I'm confused by 51...
		AA	Well, 61 requested Code 3 backup at 7th and Alberta with a patient they were transporting...
	058	EMS	...With the patient they were transporting...
		AA	Yes -- so -- 51's on their way from Emanuel to assist them...
		EMS	...and 61 sort of stopped at 7th and Alberta...
		AA	Yes
		EMS	Ok, that makes more sense.
		AA	Don't feel too bad, I felt the same way you did...
		EMS	There is a disturbance of some kind at 9th and Alberta...
		AA	Oh goody!
	074	EMS	A large gathering of kids, and it's all anonymous, but somebody's supposed to have a knife and somebody's supposed to have a handgun.

Transcript -- AA Tape, 51-61

Case 87-30, 04/13/87

Tape Voice Copy

075 AA Oh, jeez ... OK, thanks

AA 51

51 51

AA 51, supposed to be a disturbance call at 9th. and Alberta, weapons
involved, you might be aware of that situation...

remainder unreadable...

AA (CW) End of tape 1535

Transcript -- EMS tape

Case # 87-30

<u>Tape</u>	<u>Count</u>	<u>Voice</u>	<u>Copy</u>
	000	61	61, We're Code 1 to Providence
		EMS	61, 1520
	008	EMS	Last Unit, say again?
		51	51
		EMS	51, Go ahead
		51	We're clear of Emanuel, we'll be going to * unreadable * at 7th and Alberta...
		EMS	51, I copied you clear of Emanuel, but I didn't get the rest.
		51	* unreadable * ... on that call at 7th and Alberta.
		EMS	Is that a Code 1 ?
		51	A Code-3 backup.
		EMS	7 and Alberta, copy
			[telephone]
		AA	... AA Ambulance
		EMS	Hello, this is EMS
		AA	Hi EMS
		EMS	I'm confused by 51...
		AA	Well, 61 requested Code 3 backup at 7th and Alberta with a patient they were transporting
		EMS	...with the patient they were transporting...
		AA	Yes -- so, 51's on their way from Emanuel to assist them.
		EMS	...and 61 sort of stopped at 7th and Alberta...
		AA	Yes
		EMS	OK, that makes more sense.
		AA	Dcn't feel too bad, I felt the same way you did.
		EMS	There is a disturbance of some kind at 9th and Alberta...
		AA	Oh, goody!
		EMS	A large gathering of kids, and it's all anonymous, but somebody's supposed to have a knife and somebody's supposed to have a handgun.
		AA	Oh, jeez... OK, thanks
	042	EMS	1532 ; They stopped at 7th and Alberta and asked for a Code 3 backup ambulance.... well, that's the closest thing I could figure out.... well maybe a seizure , but.... I don't know why, it must have gone to shit after they started to transport... (operator conversations)
		61	61 calling --

Exhibit 20

Transcript --EMS tape

Case # 87-30

<u>Tape</u> <u>Count</u>	<u>Voice</u>	<u>Copy</u>
	EMS	61
	61	Yeah, we'll be, uh, 10-52 to Emanuel Code 3, uh, with a Code 99...
	EMS	61, at 1538
067	EMS	(operator conversation) : Code 3 to Emanuel now with a 99... so she died on 'em...
073	51	Yeah, I'm gonna be 10-7, I'm gonna follow my partner in, he's with 61, he's riding in to Emanuel...
	EMS	...at 1539... (conversation) : now half of 51's riding in the ambulance, probably pumping on her...well, he went Code 1 originally, maybe the Rescue just...went home...
112	61	61, 10-64
117	EMS	61, 1540 ... (conversation) : ...she was foaming at the mouth... They transport Code 1 to the hospital, all of a sudden 51 clears Emanuel, says "we're goin'".... wierd.

1523

61: 61

DISPATCH: 61

61: WE'RE CODE 1 TO PROVIDENCE 25.4

DISPATCH: AT 1524

61: 61. CODE 1 TO PROVIDENCE

EMS: 61. 1524

(1528)

61: 61. WE'RE STOPPING FOR A SHORT WHILE AT 7TH
AND ALBERTA

DISPATCH: 1528

(1530)

61: 61

DISPATCH: 61

61: YOU GOT ANY CARS IN THE AREA? WE NEED A
CODE 3 BACK-UP AT 7TH AND ALBERTA.

DISPATCH: COPY

DISPATCH: 51

DISPATCH: 61?

DISPATCH: 51

51: 51

DISPATCH: STAND BY ONE 51, 61?

DISPATCH: 51, WOULD YOU ADVISE EMS THAT 61 WENT THROUGH US TO ASK FOR A CODE 3 BACKUP AT 7TH & ALBERTA, AND YOU'RE RESPONDING.

51: DID YOU WANT US TO GO ON THAT?

DISPATCH: YES, SIR.

51: OKAY, WE'RE ENROUTE....ENROUTE TO THE CAR.

EMS: 51, GO AHEAD

51: ..(GARBLED).....WE'RE ON THAT CALL, 7TH & ALBERTA

EMS: COPIED YOU'RE CLEAR OF EMANUEL, BUT I DIDN'T GET THE REST

51: 51'S ENROUTE, 7TH & ALBERTA

DISPATCH: SAY AGAIN 51

SOME GARBLED TALK HERE

51: WE'LL BE CLEAR OF EMANUEL, BUT I DIDN'T GET THE REST.

51: (TO EMS) WE'RE ON THAT CALL TO 7TH & ALBERTA

51: WE'RE ENROUTE TO 7TH & ALBERTA

DISPATCH: COPY, AT 1528, YOU'RE BACKING UP 61,
UNKNOWN WHAT THEY'VE GOT

EMS: 7TH & ALBERTA, COPY

1532

(PHONE RINGS)

DISPATCH: AA AMBULANCE

EMS: HI, THIS IS EMS.

DISPATCH: HI, EMS

EMS: I'M CONFUSED BY 51.

DISPATCH: WELL, 61 REQUESTED CODE 3 BACKUP AT 7TH &
ALBERTA WITH THE PATIENT THEY WERE TRANSPORTING

EMS: WITH THE PATIENT THEY WERE TRANSPORTING?

DISPATCH: YES, SO 51'S ON THEIR WAY FROM EMANUEL TO
ASSIST THEM

EMS: AND 61 SORT OF STOPPED AT 7TH & ALBERTA

DISPATCH: YES

EMS: OKAY, THAT MAKES MORE SENSE

DISPATCH: YEAH, DON'T FEEL TOO BAD, I FELT THE SAME
WAY YOU DID

EMS: THERE IS....THERE IS A DISTURBANCE OF SOME
KIND AT 9TH & ALBERTA

DISPATCH: OH, GOODIE

EMS: OH, A LARGE GATHERING OF KIDS, AND IT IS ALL ANONYMOUS, BUT SOMEBODY IS SUPPOSED TO HAVE A KNIFE

DISPATCH: OKAY,

EMS: OKAY

DISPATCH: THANKS

1533

DISPATCH: 51

51: 51

DISPATCH: THERE IS A DISTURBANCE CALL AT 9TH & ALBERTA, WEAPONS INVOLVED, YOU MIGHT BE AWARE OF THAT LITTLE SITUATION

51: 10-4, WE'RE ABOUT, WELL THEY'RE RIGHT IN FRONT OF US

DISPATCH: 10-4

1535

51: 51'S THERE

DISPATCH: COPY

DATE SUBMITTED _____

(For Clerk's Use)
Meeting Date _____
Agenda No. _____

REQUEST FOR PLACEMENT ON THE AGENDA

Subject: EMS Appeal Hearings

Informal Only* _____
(Date)

Formal Only Tuesday, August 2, 1988
(Date)

DEPARTMENT _____ DIVISION _____

CONTACT Joe Acker & Sandra Duffy TELEPHONE 248-3674 & 248-3138

*NAME(S) OF PERSON MAKING PRESENTATION TO BOARD _____

BRIEF SUMMARY Should include other alternatives explored, if applicable, and clear statement of rationale for the action requested.

Hearing on exceptions to Hearings Officer Final Order regarding EMS Rule Violation on Ambulance Run #691/208769A

(IF ADDITIONAL SPACE IS NEEDED, PLEASE USE REVERSE SIDE)

ACTION REQUESTED:

- INFORMATION ONLY
- PRELIMINARY APPROVAL
- POLICY DIRECTION
- APPROVAL

INDICATE THE ESTIMATED TIME NEEDED ON AGENDA _____

IMPACT:

PERSONNEL

- FISCAL/BUDGETARY
- General Fund

Other _____

*Rec June 20, 1988
Jane McHawin*

SIGNATURES:

DEPARTMENT HEAD, ELECTED OFFICIAL, or COUNTY COMMISSIONER: Jane McHawin Clark

BUDGET / PERSONNEL _____

COUNTY COUNSEL (Ordinances, Resolutions, Agreements, Contracts) _____

OTHER _____
(Purchasing, Facilities Management, etc.)

NOTE: If requesting unanimous consent, state situation requiring emergency action on back.

CHRISTOPHER P. THOMAS

ATTORNEY AT LAW
2000 S.W. 1ST AVENUE
SUITE 400
PORTLAND, OREGON 97201
TELEPHONE (503) 227-1116

bcc ✓
BOARD OF
COUNTY COMMISSIONERS
1988 JUL 21 PM 3:09
MULTNOMAH COUNTY
OREGON

July 21, 1988

Ms. Jane McGarvin
Clerk, Board of County Commissioners
606 Multnomah County Courthouse
1021 SW Fourth Avenue
Portland, OR 97204

Subject: Exceptions to Proposed Final Order for
EMS Rule Violation on Ambulance Run #691/208769A

Dear Ms. McGarvin:

Pursuant to your June 30, 1988 letter, I enclose exceptions to be considered by the County Commission at its August 2, 9:30 a.m. hearing on this matter.

Very truly yours,

Ch P. Thomas

Christopher P. Thomas

CPT:mab
cc: Pete Robedeau
Sandra Duffy

1 The Hearings Officer also found that AA Ambulance violated
2 MCC 6.31.190(G). That code section prohibits an ambulance
3 provider from responding by ambulance to an emergency call unless
4 so authorized by EMS Central Dispatch or by MCC Chapter 6.31 or a
5 rule adopted thereunder.

6 The EMS rule and code section supposedly violated by AA
7 Ambulance are essentially the same. The issue in this proceeding
8 is whether AA Ambulance vehicle 61 had the authority to call AA's
9 dispatcher for "a car Code 3" in order to get a driver to the
10 scene as soon as possible. If any EMS rule authorizes this, then
11 AA Ambulance did not commit a violation. If no EMS rule
12 authorizes this, then AA61 should have called EMS Central
13 Dispatch rather than AA's dispatcher and, by failing to do so,
14 committed a violation.

15 AA Ambulance maintains that AA61 had authority under an EMS
16 rule to call AA's dispatcher for "a car Code 3" in order to get a
17 driver to the scene as soon as possible. The Proposed Final
18 Order concludes to the contrary. AA Ambulance therefore takes
19 exception to the conclusions of the Proposed Final Order.

20 EMS Rule 631-320(F). First, AA Ambulance maintains that it
21 had authority to act as it did under EMS Rule 631-320(F). That
22 rule authorizes an ambulance provider to respond immediately to
23 an emergency call from a licensee if:

- 24 (1) The provider's dispatcher relays certain information to
25 EMS Central Dispatch immediately after dispatching the
26 ambulance. Here, the Hearings Officer found that AA51

1 notified EMS Central Dispatch that it was en route to
2 NE 7th and Alberta to back up AA61 and subsequently
3 notified EMS that it was out of service because one
4 paramedic was in AA61. The applicable provisions of
5 this requirement were met.

6 (2) The call is in the provider's service area. Here, the
7 Hearings Officer found that the evidence was that the
8 call was in AA's service area. This requirement was
9 met.

10 (3) The licensee has more than 50% of its ambulances
11 available within its ambulance service area. Here, the
12 Hearings Officer found that the evidence was that AA
13 Ambulance had more than 50% of its ambulances available
14 within its service area. This requirement was met.

15 (4) The licensee uses the triage guide to determine whether
16 the call needs an emergency response. Here, the triage
17 guide was not applicable, since the need was for a
18 driver for a patient who already was the subject of a
19 valid call. This requirement was not applicable.

20 In other words, Rule 631-320(F) appears to authorize AA
21 Ambulance's action in this case. There is an exception, however,
22 in Rule 631-320(G), which says that the preceding rule does not
23 apply where an ambulance crew determines that there is a need for
24 one or more additional vehicles at the scene of an emergency.
25 The purpose of this exception is to give EMS Central Dispatch
26 control over the dispatching of ambulances to a multiple casualty

1 emergency. Here, there was not a multiple casualty emergency.
2 Rather, there was a need for another driver. The exception
3 therefore does not apply. Thus, with the exception being
4 inapplicable, AA Ambulance's action in this case was authorized
5 by EMS Rule 631-320(F).

6 Notwithstanding this, for some unexplained reason, the
7 Hearings Officer concluded that Rule 631-320(F) "does not apply
8 in this situation." AA Ambulance can imagine only two possible
9 thoughts the Hearings Officer might have had. He might have
10 concluded the rule does not apply because the call was not an
11 emergency call. If that is the case, however, there was no
12 violation because the two supposed violations only can occur if
13 there is an unauthorized response to "an emergency call." The
14 other possibility is that the Hearings Officer believed that the
15 "multiple casualty" exception applied to this case. If so, his
16 legal conclusion was incorrect.

17 EMS Rule 631-316. This rule authorizes a licensee to take
18 an ambulance out of service to EMS Central Dispatch if there are
19 more than eight ALS-staffed ambulances available to the system.
20 Here, the Hearings Officer found that the evidence was that there
21 were more than eight ALS ambulances available to the system. EMS
22 Rule 631-314 requires the crew of a vehicle to inform EMS Central
23 Dispatch promptly by radio if it goes out of service so that it
24 no longer is able to respond to EMS dispatch orders. Here, the
25 Hearings Officer found that the crew of AA51 did notify EMS
26

1 Central Dispatch that it was proceeding to back up AA61. Thus AA
2 Ambulance appears to have authority for what it did.

3 Once an ALS ambulance is taken out of service, it can be
4 treated as a BLS ambulance. The Hearings Officer found that the
5 evidence was that AA's ambulances serve as both ALS and BLS
6 ambulances. EMS Rule 631-320(E)(5) authorizes a provider to
7 dispatch a BLS ambulance Code 3 to the scene of an emergency at
8 the request of an ALS ambulance for additional manpower if the
9 ALS ambulance transports emergency patients and if the provider
10 advises EMS Central Dispatch of certain information. Here, AA61
11 requested a car Code 3 in order to get a driver, AA61 transported
12 the patient, and AA Ambulance gave the appropriate information to
13 EMS Central Dispatch.

14 Here too, however, for some unexplained reason, the Hearings
15 Officer found that AA Ambulance did not take AA51 out of service.
16 This is strange because AA51 clearly was not available to EMS
17 Central Dispatch and everyone knew it. Here too, the Hearings
18 officer's conclusion was incorrect.

19 3. Penalty. The EMS Office imposed the maximum fine on AA
20 Ambulance (\$250), and the Hearings Officer upheld it. Even if
21 there was a violation, which AA Ambulance vigorously disputes,
22 the violation at most was the use of the wrong words and should
23 not have been pursued much less subjected to the maximum fine.

24 ///

25 ///

26

1 For the reasons stated, the Hearings Officer's Proposed
2 Final Order should be rejected and an order entered exonerating
3 AA Ambulance.

4 Respectfully submitted,

5 
6 Christopher P. Thomas

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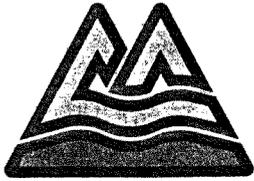
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MULTNOMAH COUNTY OREGON

DEPARTMENT OF GENERAL SERVICES
COUNTY COUNSEL SECTION
1120 S.W. FIFTH AVENUE, SUITE 1400
P.O. BOX 849
PORTLAND, OREGON 97207-0849
(503) 248-3138

BOARD OF COUNTY COMMISSIONERS
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COUNTY COUNSEL
LAURENCE KRESSEL

CHIEF ASSISTANT
ARMINDA J. BROWN

ASSISTANTS
JOHN L. DU BAY
SANDRA N. DUFFY
J. MICHAEL DOYLE
H. H. LAZENBY, JR.
PAUL G. MACKAY
MARK B. WILLIAMS

TO: Jane McGarvin
Clerk of the Board (101/606)

Emergency Medical Services Policy Board

FROM: Sandra Duffy, *Sandy*
Assistant County Counsel

DATE: June 16, 1988

RE: Proposed Final Order for EMS Rule
Violation on Ambulance Rune #691/208769A

Enclosed is the Proposed Final Order adopted and signed by B. B. Bouneff, the hearings officer in the above-referenced matter.

MCC 6.31.180(G) requires that a copy of the proposed order be mailed to the EMS Policy Board. However, MCC 6.31.180(H) requires that the Clerk of the Board send notification to the parties of the date when written exceptions to the proposed order must be filed and when oral argument may be made. There are no time frames set out in the code. I would suggest that the hearing be set in about three to four weeks, and the deadline for exceptions to be filed be set 10 days before the hearing date.

Larry Kressel and I will meet with the Board prior to the hearing to discuss the form of the hearing.

1595R/dm

cc: Joe Acker, EMS Director (w/encl.)
Larry Kressel, County Counsel (w/encl.)

1988 JUN 20 PM 2:10
MULTNOMAH COUNTY
OREGON
BOARD OF
COUNTY COMMISSIONERS

4 This matter came on for hearing on December 21, 1987
5 before Hearings Officer B. B. Bouneff. AA Ambulance was
6 represented by its attorney, Christopher P. Thomas, and Multnomah
7 County Emergency Medical Services was represented by its
8 attorney, Sandra Duffy, Assistant County Counsel. After hearing
9 testimony of witnesses; reviewing documentary evidence including
10 tape recordings; reviewing legal memoranda of counsel; hearing
11 argument of counsel; and, considering the relevant portions of
12 the Multnomah County Code and the EMS Rules, the Hearings Officer
13 found, pursuant to MCC 6.31.180(G) and in accordance with
14 Attorney General's Model Rules of Procedure Rule 137-03-070, as
15 follows:

16 1. EVIDENCE.

17 Exhibits 1, 2, 7, 8, 9, 10, 11, 12, 14, 16, 17,
18 18, 19, 20, 21 and 22 are admitted into evidence. Exhibits 3, 4,
19 5, 6, 13 and 15 are not admitted into evidence.

20 2. FINDINGS OF FACT.

21 On April 13, 1987 AA Ambulance Unit Number 61
22 (AA61), an advanced life support (ALS) ambulance, left the scene
23 of an emergency response at 3:23 p.m. At 3:24 AA61 was en route
24 to Providence Hospital with the patient when she began to have a
25 seizure. Emergency Medical Technician (EMT) Filler had the

26 /// /// ///

1 driver, EMT Hernandez, stop and help position the patient for
2 life saving procedures.

3 AA61 called the AA Ambulance dispatcher and asked
4 for a backup car (an ALS ambulance with two Emergency Medical
5 Technicians, Class IV on board). AA61 testified they called the
6 AA dispatcher rather than Emergency Medical Services (EMS)
7 Central Dispatcher because the radio transmitting to AA was more
8 accessible. Evidence indicated the AA radio was in the rear
9 compartment whereas the EMS radio was in the front of the
10 vehicle. AA Dispatch sent AA51 to meet AA61. At 3:30 p.m. AA51,
11 also an ALS ambulance, informed EMS Dispatch Office that they
12 were en route to N.E. 7th and Alberta to assist AA61. AA51
13 explained it was backing up AA61. Evidence indicates that EMS
14 Dispatch was unsure as to what was occurring and at 3:32 p.m.,
15 EMS Dispatch Office telephoned AA Dispatch to find out what AA51
16 was doing. AA51 arrived at AA61's location and dropped off an
17 EMT from AA51 who drove AA61 Code 3 to Emanuel Hospital at 3:38
18 p.m.

19 At 3:39 p.m. AA51 informed EMS Dispatch Office
20 that it was out-of-service because his partner was with AA61.
21 Evidence was introduced to indicate that the 7th and Alberta
22 location was within AA Ambulance's service area. Undisputed
23 evidence indicated that when AA dispatched AA51, there were more
24 than eight ALS ambulances available for call in Multnomah County.
25 Further evidence indicated that at the time AA had more than 50%

26 /// /// ///

1 of its ALS ambulances available within its service area, and AA's
2 ambulances served both as ALS and as Basic Life Support (BLS)
3 ambulances.

4 I believe the crux of the matter is whether or not
5 the EMS Rules require specifically the crew of the ambulance to
6 request the EMS dispatch office for an additional vehicle or
7 whether such request could be from AA Ambulance's dispatcher or
8 other agent. It is also crucial as to whether or not such
9 dispatch of additional vehicle could be on the order of other
10 agencies other than the EMS dispatcher.

11 There was conflicting evidence regarding the radio
12 call from the crew of AA61 for backup. AA Ambulance stated that
13 the crew of AA61 called for a driver. The County alleged that
14 the request was for a "a car Code 3" (an ALS ambulance with two
15 Emergency Medical Technicians, Class IV, on board). While the
16 three tape recordings are of terrible quality, all three agree on
17 the salient points. I find that all three tapes indicate that
18 the request was for a car Code 3, and not for a driver.

19 However, I also find that the AA dispatcher and
20 the crew of AA51 (the backup ALS ambulance which responded to
21 AA61's request) did advise the EMS Central Dispatch office of the
22 request on the part of AA61 and the status of the two vehicles.

23 3. CONCLUSIONS OF LAW.

24 a. AA Ambulance did not assert that it had the
25 authorization of the Emergency Medical Services Dispatch Office
26 prior to dispatching AA51 to backup AA61. It did assert,

1 however, that other provisions of the County Code and/or the EMS
2 Rules allowed such a dispatch. I find that AA Ambulance violated
3 EMS Rule 6.31.390(C)¹ by responding by ambulance to an emergency
4 call without the authorization of Emergency Medical Services
5 Dispatch Office or under any other provision of MCC 6.31.

6 b. I find that AA Ambulance violated Multnomah
7 County Code 6.31.190(G)² by responding by ambulance to an
8 emergency call without the authorization of Emergency Services
9 Dispatch Office or under the authority of any other provisions of
10 this ordinance or EMS Rule.

11 /// /// ///
12 /// /// ///
13 /// /// ///

14 1 EMS Rule 631-390(C) provides: "Prohibited activities.
15 No applicant or licensee, applicant's or licensee's
16 employee or any other person doing business as defined
in MCC 6.31 shall:

17 * * *

18 (C) Respond by ambulance to an emergency call unless
19 so authorized by the Emergency Medical Services
Central Dispatch Office or under MCC 6.31."

20 2 MCC 6.31.190(G) provides: "Prohibited activities. No
21 applicant or licensee, applicant's or licensee's
22 employee or any other person doing business as defined
hereunder shall:

23 * * *

24 (G) Respond by ambulance to an emergency call unless
25 so authorized by the Emergency Medical Services
Central Dispatch Office or under a provision of
26 this ordinance or rule adopted hereunder."

1 c. I find that AA Ambulance did not violate MCC
2 6.31.190(F)³ because the AA dispatcher and crew of AA51 advised
3 the EMS Central Dispatch Office of the request on the part of
4 AA61 and the status of the two vehicles.

5 d. I find that EMS Rule 631-320(F) does not
6 apply in this situation.⁴

7 3 MCC 6.31.190(F) provides: "Prohibited activities. No
8 applicant or licensee, applicant's or licensee's
9 employee or any other person doing business as defined
hereunder shall:

10 * * *

11 (F) Fail or refuse to promptly advise the Emergency
12 Medical Services Central Dispatch Office of
13 receipt of a request for emergency medical
14 assistance or when a licensee's ambulance becomes
available or non-available to respond to dispatch
order.

15 4 EMS Rule 631-230(F) and (G) provide:

16 "(F) A licensee shall be deemed to have a standing
17 authorization to respond by ambulance to an emergency
18 call received by the licensee, and may, accordingly,
immediately respond to the call, provided that:

19 "(1) The licensee's dispatcher relays the
20 information required in paragraph (B) of this rule
21 [location and nature of emergency and telephone
22 number of caller], including the unit number of
the ambulance, and the location from which it is
23 responding, to EMS Central Dispatch immediately
after dispatching the ambulance.

24 "(2) The call is in the licensee's ambulance
25 service area; and,

26 "(3) The licensee has more than 50% of its
ambulances available within its ambulance service
area.

"(4) A licensee shall utilize the triage guide

1 e. I find that during the pertinent times
2 herein, AA did not take AA51 out of service.⁵

3
4 adopted under these rules in determining whether a
call requires an emergency response.

5 "(5) EMS Central Dispatch may cancel any
6 ambulance dispatched by a licensee under this
standing authorization rule."

7 "(G) The provisions of paragraph (F) of this rule shall
8 not apply where an ambulance crew determines that
9 there is a need for one or more additional
10 vehicles at the scene of an emergency. Where such
11 a determination is made, the ambulance crew shall
promptly contact EMS Central Dispatch to request
the additional vehicles. The crew shall advise
EMS Central Dispatch of the number and types of
units needed."

12 5 EMS Rule 631-316, 631-314, and 631-320(E) (5) provide:

13 "631-316 A licensee's ambulance may be taken out of
14 service to the EMS Central Dispatch system if there are
15 more than eight licensed ALS-staffed ambulances
available for calls in Multnomah County. . ."

16 "631-314 The Crew of each vehicle shall promptly
17 inform EMS Central Dispatch of the following changes in
status by radio:

18 ". . .

19 "(I) Out of service (no longer available to respond to
dispatch orders from EMS Central Dispatch.)"

20 "631-320(E) (5) Licensee's BLS ambulance may respond
21 Code-3 to the scene of an emergency under the following
conditions:

22 "(a) An ALS ambulance requests addition manpower
23 at the scene of an emergency and the ALS ambulance
transports the emergency patients; or

24 "(b) . . .

25 "(c) Licensee advises EMS Dispatch by radio or
26 telephone of the number of the unit responding,

1 4. ORDER.

2 Based upon my finding that AA Ambulance did
3 violate a County Code provision and an EMS Rule, I find that the
4 fine of \$250.00 on the part of the Director of Emergency Medical
5 Services (See Exhibit 7) is appropriate and order that it be paid
6 by licensee.

7 5. APPEAL RIGHTS.

8 a. Final Order. Pursuant to MCC 6.31.180(J),
9 the Board of County Commissioners (BCC) may accept the proposed
10 final order, modify it or reject it and prepare, or cause a
11 person designated by it to prepare a final order.

12 b. Reconsideration. MCC 6.31.184 provides that
13 the BCC may reconsider a final order upon the filing of a
14 petition for reconsideration within 15 days after issuance of the
15 order. If no action is taken by the BCC within 15 days after the
16 petition is filed, the petition shall be deemed denied. If the
17 petition is allowed by vote of the BCC, a hearing on the
18 reconsideration shall be held and an amended order shall be
19 issued.

20 c. Judicial Review. Review of the action of the
21 BCC shall be taken solely and exclusively by writ of review in
22 the manner set forth in ORS 34.010 to 34.100.

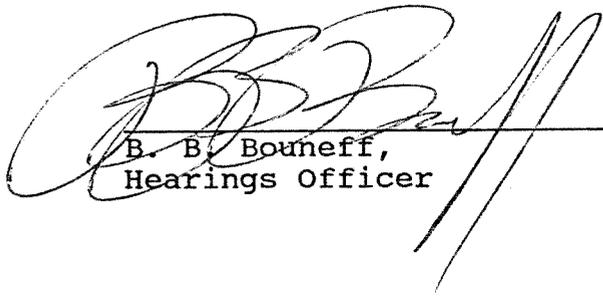
23 /// /// ///

24 _____

25 the location from which the unit is responding and
26 the location of the emergency."

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THIS PROPOSED FINAL ORDER IS ADOPTED this 15th day
of June, 1988.



B. B. Bouneff,
Hearings Officer



MULTNOMAH COUNTY OREGON

DEPARTMENT OF GENERAL SERVICES
COUNTY COUNSEL SECTION
1120 S.W. FIFTH AVENUE, SUITE 1400
P.O. BOX 849
PORTLAND, OREGON 97207-0849
(503) 248-3138

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COUNTY COUNSEL
LAURENCE KRESSEL

CHIEF ASSISTANT
ARMINDA J. BROWN

ASSISTANTS

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SANDRA N. DUFFY
J. MICHAEL DOYLE
H. H. LAZENBY, JR.
PAUL G. MACKEY
MARK B. WILLIAMS

TO: Jane McGarvin
Clerk of the Board (101/606)

FROM: Sandra Duffy *Sandy*
Assistant County Counsel

DATE: August 18, 1988

RE: EMS Appeal Hearing Set for August 23,
1988

Enclosed are 10 copies of the Exhibits of Record in the above-referenced matter for distribution to the Board.

2229R/dp

BOARD OF
COUNTY COMMISSIONERS
1988 AUG 19 AM 8:13
MULTNOMAH COUNTY
OREGON

EXHIBITS

1. Complaint re: AA Run #691/208769
2. Letter of May 19, 1987 from Joe Acker III, Director of Emergency Medical Services to AA Ambulance.
7. Letter of September 15, 1987 from Joe Acker III to AA Ambulance
8. Letter of November 13, 1987 from Chris Thomas, Attorney for AA Ambulance
9. Letter of December 2, 1987 from B.B. Bouneff to Mr. Thomas
10. Letter of December 4, 1987 from Mr. Thomas to Mr. Acker
11. EMT Reports
- 12a. Incident Reports of AA Ambulance EMT Filler
- 12B. Incident Report of AA Ambulance EMT Hernandez
14. EMS Central Dispatch Chronology
16. Letter of June 4, 1987 from Chris Thomas to Joe Acker III
17. AA Tape Transcription Case #87-30
18. EMS Tape Transcription #87-30
19. Death Certificate
20. Tape of EMS transmissions (prepared by EMS)
21. Tape of AA transmissions (prepared by EMS)
22. Tape of AA transmissions (prepared by AA)



CONFIDENTIAL

Emergency Medical Services

Multnomah County • City of Portland • Fairview • Gresham • Troutdale • Wood Village

COMPLAINT NUMBER 30

TODAY'S DATE: 4-14-87

COMPLAINANT: _____

ADDRESS: _____ 97201

PHONE NUMBER: _____

DATE OF INCIDENT: 4-13-87

TIME: between 2 and 5 p.m. 3:04 p.m.

LOCATION: N.E. 6th

ORGANIZATIONS INVOLVED: AA Ambulance

COMPLAINT: Pt's name: _____ - Age ~~36~~ 36. DOB 10-13-50

Kidney Failure pt. Paramedics asked her to walk to ambulance, she expired on way to hospital. (Emanuel) asked friend to carry a chair behind her in case she had to rest. A&S. "Frothing at the mouth - foam" couldn't talk.

4/20 Talked to Clyde Watts to confirm who transported & time of day. Letter to request PCR. Recd. 4/24.

4/21 letter to Emanuel to request EE record.

Was his. dispatched 4/27 - Memo to Tom for info. Recd. 5/5

5/5 Recd. Death Certificate from Vital Records

Attempt to reach _____ - unsuccessful - friend _____ will use _____ to call EMS if she is out in _____

5/5 Joe W. present to QA. Letter to AA 5/19 - Response requested.

5/21 letter to M. Sullivan - " " - Recd June '87

[MW-1425E-p]

Recd AA Dispatch Tape 6/4

Department of Human Services
426 S.W. Stark Street - 8th Floor - Portland, Oregon 97204 - 248-3220

6/87 - Closed

EXHIBIT 1 - page 1

APR 20 1987

April 16, 1987

Commissioner Dick Bogel
City Hall
1220 SW Fifth Avenue
Portland, Oregon 97204

CONFIDENTIAL

Attention: Steve Manton

Re: 911 Ambulance Response, April 13, 1987
to 5818 N.E. Sixth, Portland 97211, Renee Goldsby

Dear Mr. Manton:

As you suggested in our telephone conversation of April 14th regarding the above matter, I called Joe Acker, Director of Emergency Medical Services and told him of the manner in which the above emergency call had been handled resulting in the death of . Mr. Acker said that he would look into it and said that he would advise me of the outcome but that it would most likely take at least two months.

Yesterday I spoke with . sister and was told that not only did the ambulance drivers have to walk out to the ambulance barefoot and with no robe or coat, but that . friend who followed them out to the ambulance carrying a chair at the direction of the ambulance crew to use "in case she gets too tired," said that the ambulance crew had, only moments earlier, used electrical paddles to revive . and injected her with epinephrine.

Additionally, . told me that . had told the ambulance drivers to take . to Providence Hospital and then he had called . and advised her that that is where her sister would be. . rushed to Providence only to be told that they knew nothing about it. According to . it took them approximately a half an hour to locate where they had taken .

The people with . when this happened were her friend . and her neighbors, . who lives next door and . who lives across the court.

. had been an excellent tenant for a number of years and was always happy and cheerful despite her many illnesses. She was extremely well-liked by everyone in the complex and they, as well as we, the owners, and terribly upset at how this emergency, resulting in the loss of her life, was handled. I

EXHIBIT 1 - page 2

hope your office will not let this terrible episode slip by
without some responsible action.

Sincerely

Portland, uregon 97219

(503)

cc: Joe Acker, Director EMS

Portland 97212

and .



Emergency Medical Services

Multnomah County · City of Portland · Fairview · Gresham · Troutdale · Wood Village

May 19, 1987

Pete Robedeau
AA Ambulance
401 NE Weidler
Portland, Oregon 97232

Case #87-30

Dear Pete:

We are reviewing an AA Ambulance response to 18 NE 6th on 4/13/87, at approximately 1524 hours.

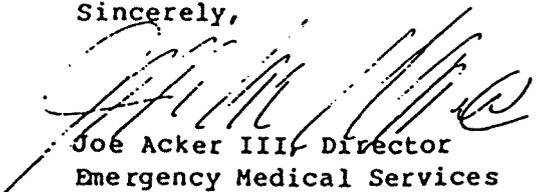
It appears that this was a self-dispatch to assist a second Advanced Life Support unit. Radio tapes from the Bureau of Emergency Communications state that AA Ambulance 51 responded to that location to assist AA 61. This response was a Code 3 response.

This response, if it was made, is a violation of Multnomah County Code 631-390C.

Please furnish me, as soon as possible, the patient care report for the second ambulance, a copy of the radio tape concerning the request by AA 51 and AA 61 with regard to this case.

This information is requested under the 631-050.

Sincerely,


Joe Acker III, Director
Emergency Medical Services

[MW-3069E-w]

EXHIBIT 2



Emergency Medical Services

Multnomah County · City of Portland · Fairview · Gresham · Troutdale · Wood Village

September 15, 1987

Peter Robedeau, Owner
AA Ambulance
401 NE Weidler
Portland, OR 97232

Notice of Fine

Dear Mr. Robedeau:

The Office of Emergency Medical Services has conducted an investigation of the AA Ambulance response to NE 6th, on 4/13/87, at approximately 1524 hours. Your records indicate this is Run 208769A and was made to 7th and Alberta Streets.

You provided us taped information, as well as patient care reports. The information you provided to us and information from the Bureau of Emergency Communications has demonstrated that AA Ambulance responded to an emergency call in violation of Multnomah County Code (MCC) and EMS rules.

AA 51 responded code 3 to assist AA 61. This was a self-dispatch of a code 3 ambulance with no ambulance company dispatcher notification to EMS dispatch. The County code Chapter 6.31.390(c) and EMS rules very clearly provide a procedure for this type of response. They require that the ambulance company dispatcher notify EMS if there is a response to a code 3 call. Also a licensee may not respond to a code 3 call without EMS dispatch approval. MCC 6.31.190(f) and (g) require that the ambulance company dispatcher notify EMS if there is a response to a code 3 call. Also a licensee may not respond to a code 3 call without EMS dispatch approval. In the event a second or more ALS code 3 ambulances are needed by the EMT he only has to voice the request to EMS Dispatch. to 911

The results of this improper dispatch are that the closest, most appropriate responder may not have been sent thereby jeopardizing patient outcome. A police incident which was occurring in the area was confused with the EMS incident causing concern on the part of EMS and police dispatch. EMS Dispatch was unaware of the reason for AA 51's code 3 response when they "radioed in" and were afraid they were responding to a "fight in progress" and might be in danger. The improperly communicated response may have endangered the patient and ambulance crew. This violation of the MCC and EMS rules is punishable by a fine.

Peter Robedeau

September 15, 1987
Page 2

The purpose of this letter is to notify you that AA Ambulance Service is hereby fined \$250 for the violation of EMS Rule 6.31.390(C) and MCC 6.31.190(F)&(G). A copy of the pertinent ordinance and rules is attached to this notice.

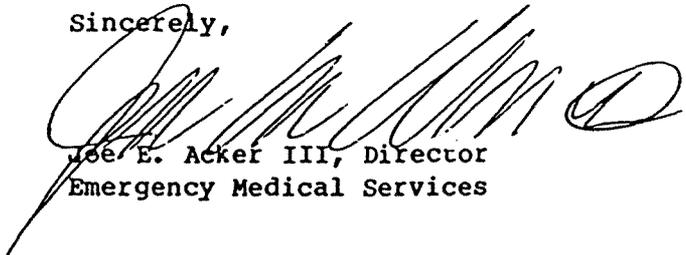
I have reviewed the material provided to me by your attorney, Chris Thomas. This material was in the form of a letter dated June 4, 1987. After reading the issues raised by Mr. Thomas, I do not consider them pertinent to this case.

Appeals Procedure

This fine may be appealed under MCC 6.31.180, 6.31.182, or 6.31.184. These sections require a person appealing a fine to request a hearing by filing a written notice with the Director within 60 days of receipt of this notice. The notice appealing the fine shall set forth reasons for the hearing and the issues to be heard. On receipt of a timely request for hearing, the Director will promptly notify the hearings officer and within five business days set a time and place for the hearing which shall not be more than 30 days from the date of receipt of the request for a hearing.

A hearing will be conducted by the hearings officer in accordance with the Attorney General's Model Rules of Procedure. The hearings officer shall issue a proposed final order as soon as practical after the termination of the hearing. The Policy Board shall notify the provider of the date when written exception to the proposed order may be filed and the date when oral argument may be made to the Board. The Policy Board may accept, modify, or reject the proposed final order. The Policy Board may reconsider the final order upon the filing of a petition for reconsideration within 15 days after issuance of the order.

Sincerely,



Joe E. Acker III, Director
Emergency Medical Services

cc: Gary Oxman, MD
Larry Kressel, County Counsel
Mark Heimann

CHRISTOPHER P. THOMAS

ATTORNEY AT LAW
2000 S.W. 1ST AVENUE
SUITE 400
PORTLAND, OREGON 97201
TELEPHONE (503) 227-1116

NOV 16 RECD

November 13, 1987

Mr. Joe E. Acker, III
Director of Emergency Medical Services
8th Floor
426 SW Stark Street
Portland, OR 97204

Subject: Appeal of Notice of Violation

Dear Mr. Acker:

AA Ambulance hereby appeals the notice of violation issued by you and dated September 15, 1987. AA Ambulance received the notice on September 17, 1987.

It is the position of AA Ambulance that the response of AA 51 to a request for a driver by AA 61, so that AA 61 driver could assist the other AA 61 crew member, was authorized by the Multnomah County Code and by the EMS rules and was conducted properly thereunder. Since you have concluded that the Multnomah County Code and EMS Rules did not authorize the response, AA Ambulance is requesting an appeal hearing. At the hearing, the issue will be whether, on the facts of this case, the Multnomah County Code and EMS rules authorized the response by AA 61 and whether the response was conducted properly thereunder.

Very truly yours,

C. P. Thomas

Christopher P. Thomas

CPT:mab
cc: Pete Robedeau

EXHIBIT 8

BOUNEFF, CHALLY & MARSHALL
ATTORNEYS AT LAW
THE LOGUS BUILDING
529 S.E. GRAND AVENUE
PORTLAND, OREGON 97214-2276
TELEPHONE (503) 238-9720

B. B. BOUNEFF
JOHN CHALLY
NEIL T. JORGENSON*
TYLER MARSHALL
W. G. KELLY CLARK
MARCIA A. PERKINS
DON THACKER*
LISA M. MAYFIELD
GARTH T. GALYON
RICHARD S. DIAZ

*ADMITTED IN
WASHINGTON AND
OREGON

IN REPLY REFER TO OUR
NUMBER
87-469-85

December 2, 1987

~~Mr. Christopher P. Thomas
Attorney at Law
2000 S.W. 1st Avenue
Suite 400
Portland, Oregon 97201~~

Re: Emergency Medical Services
Notice of Fine to A.A. Ambulance

Dear Mr. Thomas:

I have been contacted by Emergency Medical Services and requested to act as Hearings Officer. The request for a hearing was made because of the appeal made by A.A. Ambulance from a fine levied by letter of September 15, 1987, from Emergency Medical Services.

Based upon the information given to me, the hearing is set for Wednesday, December 16, 1987 to commence at 9:30 a.m. in the conference room in my office at the above indicated address.

This letter will serve as notice to you, as representative of A.A. Ambulance, and to the personnel of Emergency Medical Services as to the time and place of the hearing. In the event that there may be a need for a resetting, I would appreciate both parties contacting me as soon as possible.

Very truly yours,

B. B. Bouneff

BBB:lm
cc: Emergency Medical Services ✓
0713Lt.6

EXHIBIT 9

CLIENT'S COPY

CHRISTOPHER P. THOMAS

ATTORNEY AT LAW

2000 S.W. 1ST AVENUE

SUITE 400

PORTLAND, OREGON 97201

TELEPHONE (503) 227-1116

File
Punch

December 4, 1987

Mr. Joe E. Acker, III
Director, Emergency Medical Serv.
8th Floor
426 SW Stark Street
Portland, OR 97204

Subject: AA Ambulance: Rule Violation Hearing

Dear Joe:

This will confirm that the hearing requested in my letter of November 13, 1987 will be held at 9:00 a.m. on December 21, 1987, at the office of Bob Bouneff, hearings officer, 529 SE Grand Avenue, third floor. This also will confirm that the hearing has been rescheduled from an earlier setting (December 16) at my request, and that AA Ambulance has waived the 30 day time requirement.

Very truly yours,

C. P. Thomas

Christopher P. Thomas

CPT:mab
cc: Pete Robedeau

EXHIBIT 10

	1509	1517	1524	1526	1527	1528	1531	1535	1536	1538	1540
STATUS	COA	COA	COA	Seizure	Uncom.						
PUPILS	PEARL			Dilated	Constricted						
W/AG	W+D	W+D	W+D								
	Bases clear, slight upper-lobe wheezes										
PULSE RATE	144	120	80		52						
BLOOD PRESSURE	120/70	120/70	120/70								
RESPIRATIONS	36	32	28		Ø						
TRAUMA SCORE											
GLASGOW COMA SC.											
RHYTHM (ECG)	SUTE 1505 ^{vs. 1505} ectopy 1528 80 ^{supravent} Brady @ 50 ^{junctional} Brady @ 50 ^{50 pulses} non-pulsed ^{not palpated} @ 40 ^{idromat} @ 56 ^{@ 40}										
DC SHOCK											
AIRWAY					Oral airway						
OXYGEN					BVM 100%	suction	ET attempted	→ BVM			7.5 ET
IV 20g Hep lock		✓				DSW					
Blood draw		✓									
Atropine						5mg IV	5mg IV				
Epi								1mg IV			
								CPR started			
						Backup called			Backup arrived		Enroute

CURRENT MEDICATION NCM Nardil, Estrone, Theodor, Navone, Benz tropine, Cogentin, Sereniti, Medroxy progesterone

ALLERGIES ANKA

NARRATIVE (S) Neighbor called for pt. whose only cp shaking which started approx. 1/2 hr. ago. When questioned pt. stated she felt a little SOB, but nothing unusual. Denies CP, N+V, or any other complaint or discomfort. Denies poss. medication error. Hx - Emphysema, heart hypertension.

(C) 36 yo. BF, COA, skin W+D, color good. Resp deep, reg, rapid. Lungs clear except slight upper lobe wheezes, PEARC mid. EKG appears to be sinus tach ~~50~~ 5 ectopy (considered artifact present). Abd soft, large, non-tender. Ext - ROM, sensation, strength intact. Grps = strong. Note pt. has marked tremors esp. of upper ext. + jaw, appears to be shivering but denies feeling cold.

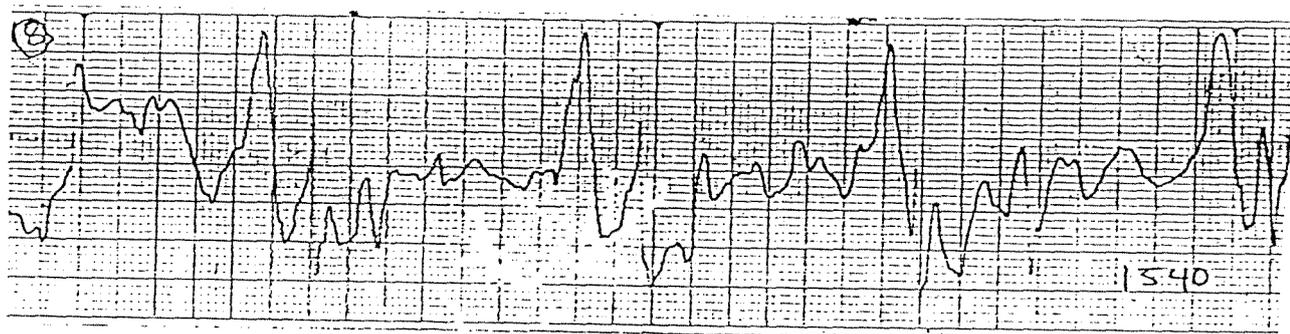
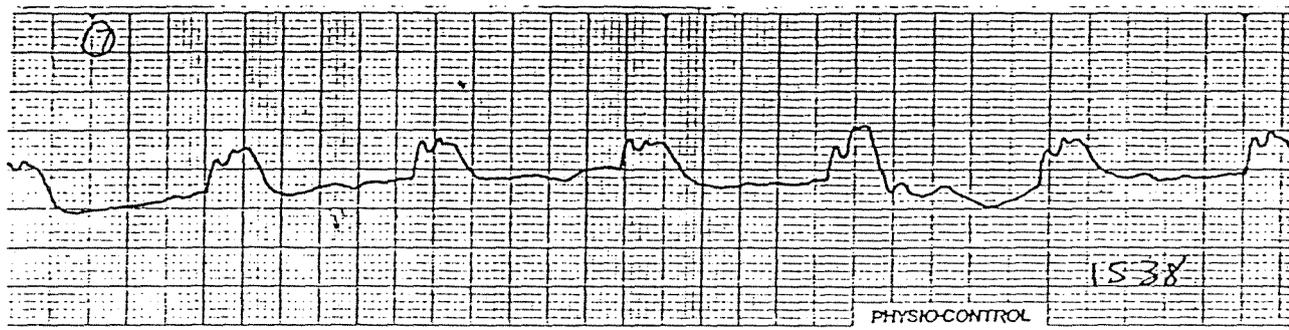
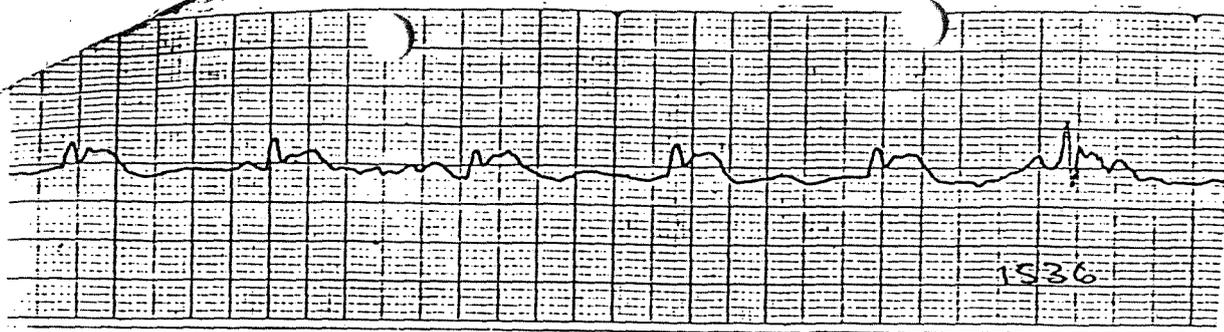
Pt. began relaxing; tremors ↓, HR ↓, resp. slowed. Enroute to Prou: Pt. said she felt a little tired then suddenly began having Grand-mal seizure lasting 30-45 sec. Noted pt. then had Brady rate + pulses, but resp. arrest.

(A) Poss. drug reaction - seizure + cardiac arrest

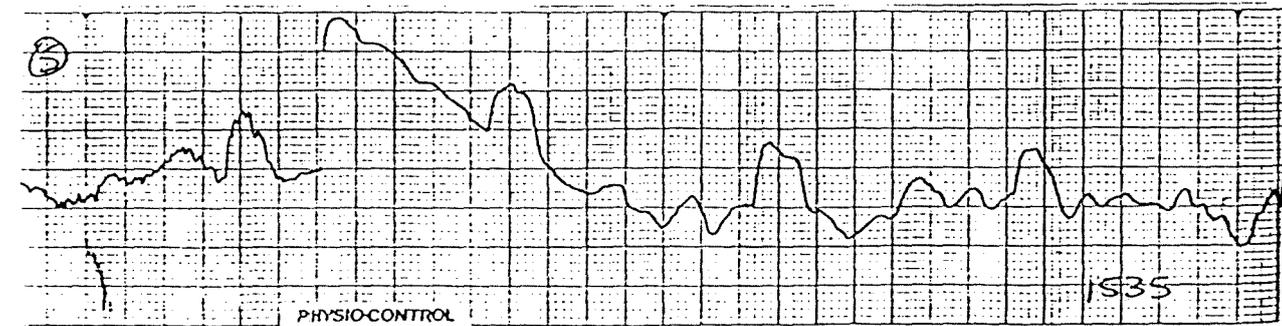
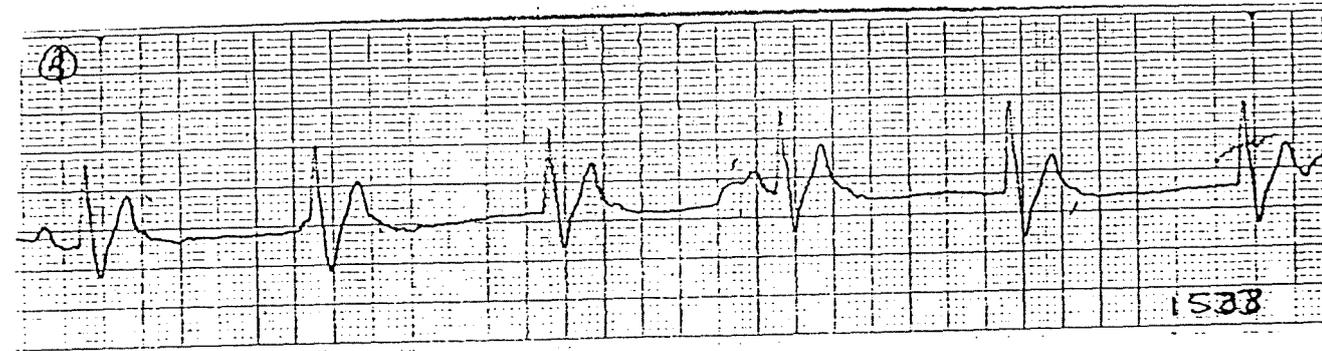
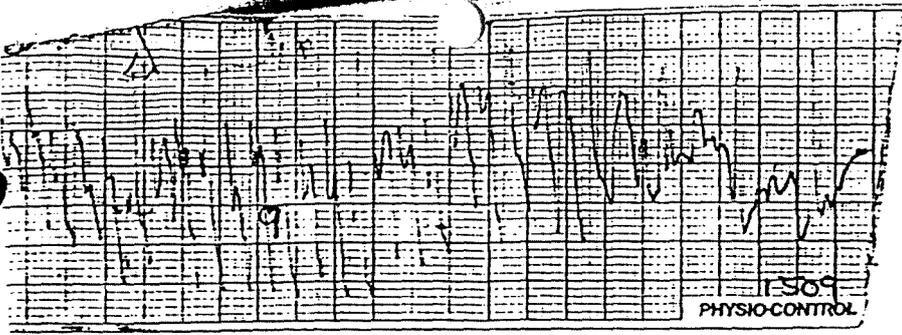
(P) → Seizure → Oral Airway + BVM 100% O₂ + Backup called → DSW plugged in + 5mg Atropine given 3 results, EKG supravent brady @ 50 → Junctional brady @ 50 → 5mg Atropine given 3 result → Now pulseless + idioventricular → CPR started + Backup arrived → 1mg Epi IV 3 result → Enroute + CPR in progress → Intubated @ 7.5mm ET just B4 arrival @ Prou → Cords visualized, unable to auscultate 2° area → Good chest movement noted → Arrived

CAL IMPRESSION

EMS Personnel	Certification Level	T	Pd/Vol	EMS Personnel	Certification Level	T	Pd/Vol
1.				1. Ellen P. Felling	FOI-4		
2.				2. Torin Hennings	HO3-4		
Personal Belongings Entrusted to:				Signature of Person Writing Report		Date Time	
				Ellen P. Felling		FOI-4 4-13-87	



4/13/87
691/208765
CII



CONFIDENTIAL

EXHIBIT 11-page 3

INCIDENT REPORT

DATE OCCURRED: 4/13/87

TIME: _____

INVOICE: _____

REGARDING: Pt. 691/208769

FROM: Eileen Filler

TO: Pete Robedeau, Dr. Sequera

INCIDENT: We were sent C-3 by EMS on an unknown problem. On arrival we found pt. laying on bed in dark room. She was conscious, alert, oriented, very excited and appeared to be shivering as though cold. Her skin was warm and dry, color good, lungs were clear except for faint upper lobe wheezes. She had a history of emphysema and heart.

Pt. denied any unusual shortness of breath, chest pain, nausea and vomiting or any other complaint or discomfort except shivering.

In response to QA questions.

#1) Treatment in house included exam, heparin lock, blood draw, EKG.

#2) Pt. initially was in dark bedroom. When initial exam, including EKG, produced no ~~life-threatening~~ findings, pt. was asked to move to living room (5-8 ft.) to allow more thorough exam with better light. Pt. started heading for door and had to be directed to couch so exam could be completed.

When preparing to get stretcher pt. stated she would walk out. I asked her if she was sure, and she insisted yes.

SIGNED: _____

DATE: _____

SIGNED: _____

DATE: _____

INCIDENT REPORT

DATE OCCURRED: 4/13/87

TIME:

VOICE:

DEPARTING: Pt. -

691/208769

FROM: Eileen Eller

TO: Pete Robedeau, Dr. Sequerra

INCIDENT:

#2 cont.) My partner and I walked beside her and friend was asked to follow with chair (In case tremors increased.)

By now tremors had diminished considerably, heart rate and respiratory rate had decreased and pt. was calmer.

Pt. arrived at ambulance without difficulty.

Rough copy of chart was recopied and I missed transfer that line.

#3) First responders left after initial exam in bed room.

#4) Medications and level of care were appropriate to each level of pt. progression per protocol.

#5) We were en route to Providence hospital when pt. began having seizure. I had my partner stop and come back to help me position pt. ~~and~~ before continuing to Providence.

Seizure stopped while he was in back and we noted pt. was now apneic and bradycardic.

An airway was placed, BVM ventilation started, D5W

DENSED:

DATE:

SIGNED:

DATE:

EXHIBIT 12a - page 2

INCIDENT REPORT

DATE OCCURRED: 4/13/87

TIME:

INVOICE:

REGARDING:

691/208769

FROM: Eileen Filler

TO: Pete Robedeau, Dr. Sequeira

INCIDENT:

#5 cont.) attached to existing hip lock. Atropine was administered and backup was called during these activities since it was now apparent that care could not be adequately provided by one tech. Pt. continued to rapidly deteriorate and further medications were administered, pt was suctioned and intubation was attempted since it was difficult to maintain good ventilations with mask and airway only. Pt. fully arrested and CPR was started just prior to arrival of second crew.

Times as indicated by flow chart are misleading since more than one watch was used during this call.

#6) Pt. did not have frothy sputum as one would from pulmonary edema, nor any cough, lung sounds were essentially clear.

This pt appeared to be shivering as though cold. At one some times does when shivering, her lips also had tremors and this produced spitting but not frothy sputum.

#7) Backup arrived and one member drove us to Emswell after they checked to see if we needed anything in back. They performed no medical procedures.

SIGNED:

DATE:

SIGNED:

DATE:

INCIDENT REPORT

DATE OCCURRED: 4/13/87

TIME:

INVOICE:

REGARDING:

691/208769

FROM:

Eileen Aller

TO:

Pete Robedeau, Dr. Sequera

INCIDENT:

#8) My initial thinking was that pt might be exhibiting some type of bizarre response to one of her medications, Navane or Theodor seemed the most likely suspects. Drug reaction seemed to be the most consistently reasonable explanation for the pt initial presentation and ultimate progression.

At no time prior to the seizure did the pt have any sign of decreased mental status or other symptom that might indicate need for D50 or Narcan. Neither did we find any sign of OD, a pt denied the possibility - there seemed to be no indication for ipecac.

As a precaution we did do a blood draw and placed a heparin lock.

SIGNED:

Eileen J. Aller

DATE:

5/30/87

SIGNED:

DATE:

EXHIBIT 12

INCIDENT REPORT

101

DATE OCCURRED: 4-13-87

TIME: _____

INVOICE: _____

REGARDING: _____

691/208769

FROM: Tony Hernandez

TO: Dr. Sequeira, Pete Robedean

CONFIDENTIAL

INCIDENT: ① Initial Treatment at pts House was, Exam, ECG, Blood Draw & Heparin lock.

② When my partner & I began to discuss getting gurney for Pt, she (the Pt) stated that gurney was not needed that she wanted to walk. Pt was insistent.

③ First responders were not cancelled prior to V/S. They were told they could leave (per usual) after pt assessment including V/S were completed.

④ All medications & care delivered to pt were appropriate @ each stage. Muthnouch County Protocols were followed.

⑤ Back up was called several minutes after a stop at side of road when pt began to seize. Post seizure pt's respiratory & cardiac deteriorated & it became evident to us that one tech. in the back could not be able to handle all procedures that needed to be done.

⑥ Pt had no frothy sputum as seen in a CHF type problem. Pt was actually spitting saliva.

⑦ Second ALS ambulance arrived the first tech at our back doors ask what needed to be done,

over-

DENSED: Tony Hernandez

DATE: _____

SIGNED: _____

DATE: _____

EXHIBIT 12 b - page 1

INCIDENT REPORT

DATE OCCURRED: 4-13-87

TIME:

INVOICE:

REGARDING:

691/208769

FROM: Tony Hernandez

TO: Dr. Sequiera, Pete Robideau

INCIDENT:

He was directed to drive us C-3 to Emanuel

⑧ Assessment of drug reaction was used as it seemed the most likely possibility after sudden progression into cardiac arrest, again in retrospect this was most consistent & reasonable explanation. No D50 or Norcan were indicated 2° to pt being CAO X3 & not exhibiting signs of A.M.S. or O.D.

For very detailed explanation, see accompanying I.R. from my partner.

SIGNED:

Tony Hernandez

DATE:

SIGNED:

DATE:

DATE: May 14, 1987
TO: Joe Acker
FROM: Larry Johnson *fy*
SUBJECT: Incident # 691, 4/13/87

Here is the information, printouts, and tape of the call you requested:

Incident #: 691
Date: 4/13/87
Location: NE 6th

1524 - AA 61 enroute to Providence Code 1
1530 - AA 51 informs EMS that they are enroute to 7th & Alberta to assist AA 61
1532 - EMS calls AA dispatch to find out what AA 51 is doing
1538 - AA 61 enroute to Emanuel Code 3
1539 - AA 51 out-of-service because partner is with AA 61
1540 - AA 61 arrives at Emanuel (1540:54)

EXHIBIT 14

T.S.

CHRISTOPHER P. THOMAS

ATTORNEY AT LAW
2000 S.W. 1ST AVENUE
SUITE 400
PORTLAND, OREGON 97201
TELEPHONE (503) 227-1116

June 4, 1987

JUN 4 1987

Mr. Joe Acker, III
Director, Emergency Medical Services
8th Floor
426 SW Stark
Portland, OR 97204

Subject: Case #87-30

Hand Delivered

Dear Mr. Acker:

This in response to your letter dated May 19, 1987, which was postmarked May 22 and received May 26. In the letter, you requested a copy of the patient care report for the second ambulance, AA 51, that was involved in the case about which you are inquiring. I enclose a copy of the patient care report. You also requested "a copy of the radio tape concerning the request by AA 51 and AA 61 with regard to this case." I assume you are requesting a copy of the tape of the AA 61 call that led to AA 51 being sent to meet AA 61 and have asked AA Ambulance, under separate cover, to provide you with a copy.

You suggested in your letter dated May 19 that if AA 51 was a self-dispatch to assist AA 61, then there was a violation of MCC 631-390C. Actually, the citation should be to EMS Rule 631-390 (C). AA Ambulance does not believe there was a violation in this case, for the following reasons.

EMS Rule 631-390(C) states that no licensee may respond by ambulance to an emergency call unless so authorized by the EMS Central Dispatch Office. The question is how this relates to the facts of this particular case. Here, the patient went into cardiac arrest in AA 61 on the way to the hospital. The ambulance driver stopped the ambulance to assist the other crew member and called for another driver. AA sent AA 51 to provide a driver, notifying EMS Central Dispatch this was occurring. AA 51 delivered the driver and then followed AA 61 to Emanuel Hospital, picked up the driver, and returned to the AA facility. AA 51 did not provide patient care. AA 51 was out of service for 15 minutes.

We believe that EMS Rule 631-390(C) is not applicable to this case. Prior to the adoption of EMS Temporary Rule 1-86-A, we believe this situation would have been covered by EMS Rule 631-320. Subsection (E)(5) of that rule allowed a provider to

EXHIBIT 16-page 1

Mr. Joe Acker, III
June 4, 1987
Page Two

dispatch directly a BLS ambulance Code 3 to the scene of an emergency if an ALS ambulance requested additional manpower and transported the patients, and if the provider notified EMS Dispatch by radio of the dispatch. Subsection (F) gave a provider standing authority to respond directly to an emergency call if the provider notified EMS Dispatch by radio of the dispatch, the call was in the provider's service area, and the licensee had more than 50% of its ambulances available within its service area. Subsection (G) took away the provider's subsection (F) authority when an ambulance crew arrived at the scene, discovered it was a mass casualty case, and determined there should be multiple ambulances. In that case, dispatch had to be by EMS Central Dispatch.

In 1986, EMS Temporary Rule 1-86-A repealed EMS Rule 631-320(E) and replaced it with a temporary rule. Subsection (4) authorizes a provider, in its discretion, to use its ambulance for Code 1 or Code 3 approved calls until there are only eight available system ambulances. Read in light of the predecessor rule 631-320(E), we believe this authorizes a direct response within a provider's service area to a Code 3 call as long as there are nine system ambulances available. That was the case here. On this basis, the dispatch of AA 51 was proper.

Furthermore, EMS Rule 631-320(F) was not repealed by EMS Temporary Rule 1-86-A. On December 15, 1986, the EMS Policy Board adopted a new Rule 631-316, relating to taking vehicles out of service. That change, however, did not change Rule 631-320 (F). We believe that subsection (F) also authorized the dispatch that occurred here.

Finally, if EMS Temporary Rule 1-86-A is no longer effective because of an automatic expiration, then EMS Rule 631-320(E) is back in effect. It is arguable that subsection (E) also authorized the dispatch that occurred here.

Joe, one thing I have seen from my review of this case is that the revisions to the 50 percent rule were not complete; that the December 15, 1986 EMS Policy Board action regarding EMS Rule 631-316 did not address the change made by EMS Temporary Rule 1-86-A, which means that either the temporary rule still is in effect or Rule 631-320(E) is back in effect; and that the dispatch rules, as a result of all of this, are a mess. It is most disturbing to see this entire area of rulemaking having been handled so poorly.

In further response to your letter dated May 19, I gather that you have not found a violation to have occurred, but merely have requested information. If you do make a finding of a violation,

EXHIBIT 16-pages

Transcript -- AA Tape, 51-61 Case 87-30, 04/13/87

<u>Tape</u>	<u>Marker #</u>	<u>Voice</u>	<u>Copy</u>
	002	AA	Time presently is 1529, 4/13/87'
	005	AA	*unreadable* ...down the street * *
		61	61'
		AA	Go ahead 61'
	013	61	61 arrived... you got any cars in the area, we need a Code 3 backup.'
		AA	Copy'
		51	Does anyone know if seizure prior to call or after?'
		61	* unreadable *'
	031	51	Go ahead'
		AA	Better get them back in district'
	033	EMS	51, copied you clear of Emanuel but I didn't get the rest...
		51	We're going to that call on 7th and Alberta (to EMS)
		51	En route to 7th and Alberta (to AA)
	037	EMS	At 1541, backing up 61 on 7th and Alberta
		?	Code 3 backup
	043	EMS	7th and Alberta, copy
			long pause on tape
	056	AA	(telephone) ... AA Ambulance'
		EMS	Hello, this is EMS
		AA	Hi EMS
		EMS	I'm confused by 51...
		AA	Well, 61 requested Code 3 backup at 7th and Alberta with a patient they were transporting...
	058	EMS	...With the patient they were transporting...
		AA	Yes -- so -- 51's on their way from Emanuel to assist them...
		EMS	...and 61 sort of stopped at 7th and Alberta...
		AA	Yes
		EMS	Ok, that makes more sense.
		AA	Don't feel too bad, I felt the same way you did...
		EMS	There is a disturbance of some kind at 9th and Alberta...
		AA	Oh goody!
	074	EMS	A large gathering of kids, and it's all anonymous, but somebody's supposed to have a knife and somebody's supposed to have a handgun.

EXHIBIT 17. page 1

Transcript -- AA Tape, 51-61

Case 87-30, 04/13/87

<u>Tape</u>	<u>Voice</u>	<u>Copy</u>
075	AA	Oh, jeez ... OK, thanks
	AA	51
	51	51
	AA	51, supposed to be a disturbance call at 9th and Alberta, weapons involved, you might be aware of that situation...

remainder unreadable...

AA (CW) End of tape 1535

EXHIBIT 17 - page 2

Transcript -- EMS tape

Case # 87-30

<u>Tape Count</u>	<u>Voice</u>	<u>Copy</u>
000	61	61, We're Code 1 to Providence
	EMS	61, 1520
008	EMS	Last Unit, say again?
	51	51
	EMS	51, Go ahead
	51	We're clear of Emanuel, we'll be going to * unreadable * at 7th and Alberta...
	EMS	51, I copied you clear of Emanuel, but I didn't get the rest.
	51	* unreadable * ... on that call at 7th and Alberta.
	EMS	Is that a Code 1 ?
	51	A Code-3 backup.
	EMS	7 and Alberta, copy
		[telephone]
	AA	... AA Ambulance
	EMS	Hello, this is EMS
	AA	Hi EMS
	EMS	I'm confused by 51...
	AA	Well, 61 requested Code 3 backup at 7th and Alberta with a patient they were transporting
	EMS	...with the patient they were transporting...
	AA	Yes -- so, 51's on their way from Emanuel to assist them.
	EMS	...and 61 sort of stopped at 7th and Alberta...
	AA	Yes
	EMS	OK, that makes more sense.
	AA	Don't feel too bad, I felt the same way you did.
	EMS	There is a disturbance of some kind at 9th and Alberta...
	AA	Oh, goody!
	EMS	A large gathering of kids, and it's all anonymous, but somebody's supposed to have a knife and somebody's supposed to have a handgun.
	AA	Oh, jeez... OK, thanks
042	EMS	1532 ; They stopped at 7th and Alberta and asked for a Code 3 backup ambulance.... well, that's the closest thing I could figure out.... well maybe a seizure , but.... I don't know why, it must have gone to shit after they started to transport... (operator conversations)
	61	61 calling --

EXHIBIT 18 - page 1

Transcript --EMS tape

Case # 87-30

<u>Tape</u> <u>Count</u>	<u>Voice</u>	<u>Copy</u>
	EMS	61
	61	Yeah, we'll be, uh, 10-62 to Emanuel Code 3, uh, with a Code 99...
	EMS	61, at 1538
067	EMS	(operator conversation) : Code 3 to Emanuel now with a 99... so she died on 'em...
073	51	Yeah, I'm gonna be 10-7, I'm gonna follow my partner in, he's with 61, he's riding in to Emanuel...
	EMS	...at 1539... (conversation) : now half of 51's riding in the ambulance, probably pumping on her...well, he went Code 1 originally, maybe the Rescue just...went home...
112	61	61, 10-64
117	EMS	61, 1540 ... (conversation) : ...she was foaming at the mouth... They transport Code 1 to the hospital, all of a sudden 51 clears Emanuel, says "we're goin'".... wierd.

EXHIBIT 18-page 2

CONFIDENTIAL

STATE OF OREGON
OREGON STATE HEALTH DIVISION
DEPARTMENT OF HUMAN SERVICES
Vital Records Unit

CERTIFICATE OF DEATH

20726
ID TAG NO.

ORS - 146

State File Number

TYPE OR PRINT IN PERMANENT BLACK INK FOR INSTRUCTIONS SEE HANDBOOK

DECEDENT

IF DEATH OCCURRED IN INSTITUTION, SEE HANDBOOK REGARDING COMPLETION OF RESIDENCE ITEMS

DISPOSITION

CERTIFIER

MEDICAL EXAMINER

CONDITIONS IF ANY WHICH GAVE RISE TO IMMEDIATE CAUSE STATING THE UNDERLYING CAUSE LAST

CAUSE OF DEATH

DECEASED - NAME			First	Middle	Last	DATE OF DEATH (month, day, year)		
						2 April 13, 1987		
RACE White, Black, American Indian, etc. (specify)			SEX	AGE - Last birthday (years)		Under 1 year		Under 1 day
3 Black			4 Female	5a 36	5b mos.	5c days	5d hours	5e min.
CITY, TOWN OR LOCATION OF DEATH			HOSPITAL OR OTHER INSTITUTION - NAME (If not in either, give street and number)			IF HOSP. OR INST. Indicate DOA, OP/Emer. Rm., Inpatient (specify)		COUNTY OF DEATH
7a Portland			7b Emanuel Hospital			7c ER		7d Multnomah
STATE OF BIRTH (If not in U.S.A., name country)			CITIZEN OF WHAT COUNTRY		MARRIED, NEVER MARRIED, WIDOWED, DIVORCED (specify)		SPOUSE (IF MARRIED, WIDOWED)	
8 Ohio			9 USA		10 Divorced		11 -	
SOCIAL SECURITY NUMBER			USUAL OCCUPATION (Give kind of work done during most of working life, even if retired)			KIND OF BUSINESS OR INDUSTRY		
13			14a Clerical			14b Construction		
RESIDENCE - STATE			COUNTY	CITY, TOWN OR LOCATION		STREET AND NUMBER OR R.F.D.		ZIP
15a Oregon			15b Multnomah	15c Portland		15d NE 6th		15e 97221
FATHER - NAME first middle last			MOTHER - first middle last (Maiden Name)		INFORMANT - NAME and relationship to deceased			Inside City Limits (specify year or no)
16 Charles			17 Alberta		18 Helen - sister			15e Yc
BURIAL, CREMATION, REMOVAL, MAUS. (specify)			CEMETERY OR CREMATORY - NAME			LOCATION city or town state		
19a Removal/Burial			19b Evergreen Memorial Park			19c Redford Heights, Ohio		
FUNERAL SERVICE LICENSEE or person billing as such (Signature)			NAME AND ADDRESS OF FACILITY					
20a			Lincoln Willamette Funeral Directors, Portland, Oregon 97266					
CERTIFICATION - MEDICAL EXAMINER								
I CERTIFY THAT I MADE INQUIRY INTO THE DEATH OF THE DECEASED PERSON DESCRIBED ABOVE, AND IN MY OPINION DEATH RESULTED ON OR ABOUT:								
DEATH OCCURRED (Hour)			THE DECEASED WAS PRONOUNCED DEAD			FROM:		
21a 4:20 P M			21b April 13, 1987 4:20 P M			21c NATURAL CAUSES <input checked="" type="checkbox"/> ACCIDENT <input type="checkbox"/> SUICIDE <input type="checkbox"/> HOMICIDE <input type="checkbox"/> UNDETERMINED <input type="checkbox"/> PENDING <input type="checkbox"/>		
CERTIFIER (Signature)			NAME AND TITLE - (Type or Print)					
21d			21e LARRY V. LEWMAN, M. D.					
MEDICAL EXAMINER For			DATE SIGNED (Month, Day, Year)					
21f			21g April 28, 1987					
DATE RECEIVED BY REGISTRAR (Mo., Day, Year)			REGISTRAR					
22a MAY 04 1987			22b (Signature) Bloom					
23 IMMEDIATE CAUSE (ENTER ONLY ONE CAUSE PER LINE FOR (a), (b) AND (c).)								
PART I (a) CARDIAC ARRHYTHMIA PROBABLY SECONDARY TO HYPERTENSIVE CARDIOVASCULAR DUE TO, OR AS A CONSEQUENCE OF: DISEASE AND/OR FATTY METAMORPHOSIS OF LIVER							Interval between onset and death	
(b) DUE TO, OR AS A CONSEQUENCE OF:							Interval between onset and death	
(c) DUE TO, OR AS A CONSEQUENCE OF:							Interval between onset and death	
PART II OTHER SIGNIFICANT CONDITIONS - Conditions contributing to death but not related to cause given in PART I (a)							AUTOPSY (Specify Yes or No)	
							24 YES	
DATE OF INJURY (Month, Day, Year)			HOUR		HOW INJURY OCCURRED (Enter nature of injury in Part I or Part II, Item 23)			
25a			25b		25c			
INJ. AT WORK (Specify Yes or No)			PLACE OF INJURY - At home, farm, street, factory, office building, etc. (Specify)		LOCATION (Street or R.F.D. No., City or Town, County, State)			
25d			25e		25f			

EXHIBIT 19

81-947

Transcript -- AA Tape, 51-61 Case 87-30, 04/13/87

<u>Tape</u>	<u>Marker #</u>	<u>Voice</u>	<u>Copy</u>
	002	AA	Time presently is 1529, 4/13/87
	005	AA	*unreadable* ...down the street **
		61	61
		AA	Go ahead 61
	013	61	61 arrived... you got any cars in the area, we need a Code 3 backup.
		AA	Copy
		51	Does anyone know if seizure prior to call or after?
		61	* unreadable *
	031	51	Go ahead
		AA	Better get them back in district
	033	EMS	51, copied you clear of Emanuel but I didn't get the rest...
		51	We're going to that call on 7th and Alberta (to EMS)
		51	En route to 7th and Alberta (to AA)
	037	EMS	At 1541, backing up 61 on 7th and Alberta
		?	Code 3 backup
	043	EMS	7th and Alberta, copy
			long pause on tape
	056	AA	(telephone) ... AA Ambulance
		EMS	Hello, this is EMS
		AA	Hi EMS
		EMS	I'm confused by 51...
		AA	Well, 61 requested Code 3 backup at 7th and Alberta with a patient they were transporting...
	058	EMS	...With the patient they were transporting...
		AA	Yes -- so -- 51's on their way from Emanuel to assist them...
		EMS	...and 61 sort of stopped at 7th and Alberta...
		AA	Yes
		EMS	Ok, that makes more sense.
		AA	Don't feel too bad, I felt the same way you did...
		EMS	There is a disturbance of some kind at 9th and Alberta...
		AA	Oh goody!
	074	EMS	A large gathering of kids, and it's all anonymous, but somebody's supposed to have a knife and somebody's supposed to have a handgun.

Transcript -- AA Tape, 51-61

Case 87-30, 04/13/87

<u>Tape</u>	<u>Voice</u>	<u>Copy</u>
075	AA	Oh, jeez ... OK, thanks
	AA	51
	51	51
	AA	51, supposed to be a disturbance call at 9th and Alberta, weapons involved, you might be aware of that situation...
		remainder unreadable...
	AA (CW)	End of tape 1535

Transcript -- EMS tape

Case # 87-30

<u>Tape Count</u>	<u>Voice</u>	<u>Copy</u>
000	61	61, We're Code 1 to Providence
	EMS	61, 1520
008	EMS	Last Unit, say again?
	51	51
	EMS	51, Go ahead
	51	We're clear of Emanuel, we'll be going to * unreadable * at 7th and Alberta...
	EMS	51, I copied you clear of Emanuel, but I didn't get the rest.
	51	* unreadable * ... on that call at 7th and Alberta.
	EMS	Is that a Code 1 ?
	51	A Code-3 backup.
	EMS	7 and Alberta, copy
		[telephone]
	AA	... AA Ambulance
	EMS	Hello, this is EMS
	AA	Hi EMS
	EMS	I'm confused by 51...
	AA	Well, 61 requested Code 3 backup at 7th and Alberta with a patient they were transporting
	EMS	...with the patient they were transporting...
	AA	Yes -- so, 51's on their way from Emanuel to assist them.
	EMS	...and 61 sort of stopped at 7th and Alberta...
	AA	Yes
	EMS	OK, that makes more sense.
	AA	Dcn't feel too bad, I felt the same way you did.
	EMS	There is a disturbance of some kind at 9th and Alberta...
	AA	Oh, goody!
	EMS	A large gathering of kids, and it's all anonymous, but somebody's supposed to have a knife and somebody's supposed to have a handgun.
	AA	Oh, jeez... OK, thanks
042	EMS	1532 ; They stopped at 7th and Alberta and asked for a Code 3 backup ambulance.... well, that's the closest thing I could figure out.... well maybe a seizure , but.... I don't know why, it must have gone to shit after they started to transport... (operator conversations)
	61	61 calling --

Exhibit 20

Transcript --EMS tape

Case # 87-30

<u>Tape</u> <u>Count</u>	<u>Voice</u>	<u>Copy</u>
	EMS	61
	61	Yeah, we'll be, uh, 10-62 to Emanuel Code 3, uh, with a Code 99...
	EMS	61, at 1538
067	EMS	(operator conversation) : Code 3 to Emanuel now with a 99... so she died on 'em...
073	51	Yeah, I'm gonna be 10-7, I'm gonna follow my partner in, he's with 61, he's riding in to Emanuel...
	EMS	...at 1539... (conversation) : now half of 51's riding in the ambulance, probably pumping on her...well, he went Code 1 originally, maybe the Rescue just...went home...
112	61	61, 10-64
117	EMS	61, 1540 ... (conversation) : ...she was foaming at the mouth... They transport Code 1 to the hospital, all of a sudden 51 clears Emanuel, says "we're goin'".... wierd.

1523

61: 61

DISPATCH: 61

61: WE'RE CODE 1 TO PROVIDENCE 25.4

DISPATCH: AT 1524

61: 61, CODE 1 TO PROVIDENCE

EMS: 61, 1524

(1528)

61: 61, WE'RE STOPPING FOR A SHORT WHILE AT 7TH
AND ALBERTA

DISPATCH: 1528

(1530)

61: 61

DISPATCH: 61

61: YOU GOT ANY CARS IN THE AREA? WE NEED A
CODE 3 BACK-UP AT 7TH AND ALBERTA.

DISPATCH: COPY

DISPATCH: 51

DISPATCH: 61?

DISPATCH: 51

51: 51

DISPATCH: STAND BY ONE 51, 61?

DISPATCH: 51, WOULD YOU ADVISE EMS THAT 61 WENT THROUGH US TO ASK FOR A CODE 3 BACKUP AT 7TH & ALBERTA, AND YOU'RE RESPONDING.

51: DID YOU WANT US TO GO ON THAT?

DISPATCH: YES, SIR.

51: OKAY, WE'RE ENROUTE....ENROUTE TO THE CAR.

EMS: 51, GO AHEAD

51: ..(GARBLED).....WE'RE ON THAT CALL, 7TH & ALBERTA

EMS: COPIED YOU'RE CLEAR OF EMANUEL, BUT I DIDN'T GET THE REST

51: 51'S ENROUTE, 7TH & ALBERTA

DISPATCH: SAY AGAIN 51

SOME GARBLED TALK HERE

51: WE'LL BE CLEAR OF EMANUEL, BUT I DIDN'T GET THE REST.

51: (TO EMS) WE'RE ON THAT CALL TO 7TH & ALBERTA

51: WE'RE ENROUTE TO 7TH & ALBERTA

DISPATCH: COPY, AT 1528, YOU'RE BACKING UP 61,
UNKNOWN WHAT THEY'VE GOT

EMS: 7TH & ALBERTA, COPY

1532

(PHONE RINGS)

DISPATCH: AA AMBULANCE

EMS: HI, THIS IS EMS.

DISPATCH: HI, EMS

EMS: I'M CONFUSED BY 51.

DISPATCH: WELL, 61 REQUESTED CODE 3 BACKUP AT 7TH &
ALBERTA WITH THE PATIENT THEY WERE TRANSPORTING

EMS: WITH THE PATIENT THEY WERE TRANSPORTING?

DISPATCH: YES, SO 51'S ON THEIR WAY FROM EMANUEL TO
ASSIST THEM

EMS: AND 61 SORT OF STOPPED AT 7TH & ALBERTA

DISPATCH: YES

EMS: OKAY, THAT MAKES MORE SENSE

DISPATCH: YEAH, DON'T FEEL TOO BAD, I FELT THE SAME
WAY YOU DID

EMS: THERE IS....THERE IS A DISTURBANCE OF SOME
KIND AT 9TH & ALBERTA

DISPATCH: OH, GOODIE

EMS: OH, A LARGE GATHERING OF KIDS, AND IT IS ALL ANONYMOUS, BUT SOMEBODY IS SUPPOSED TO HAVE A KNIFE

DISPATCH: OKAY,

EMS: OKAY

DISPATCH: THANKS

1533

DISPATCH: 51

51: 51

DISPATCH: THERE IS A DISTURBANCE CALL AT 9TH & ALBERTA, WEAPONS INVOLVED, YOU MIGHT BE AWARE OF THAT LITTLE SITUATION

51: 10-4, WE'RE ABOUT, WELL THEY'RE RIGHT IN FRONT OF US

DISPATCH: 10-4

1535

51: 51'S THERE

DISPATCH: COPY

*S. Deffy, Dep.
Co. Counsel
w/prepare final
Order & bring to
clerk.*

Take Note!
Imprinted Specialties, Call
Art Courtney

*8/23/88
9:30 AM*

WESTERN BUSINESS BUILDERS
287-3042