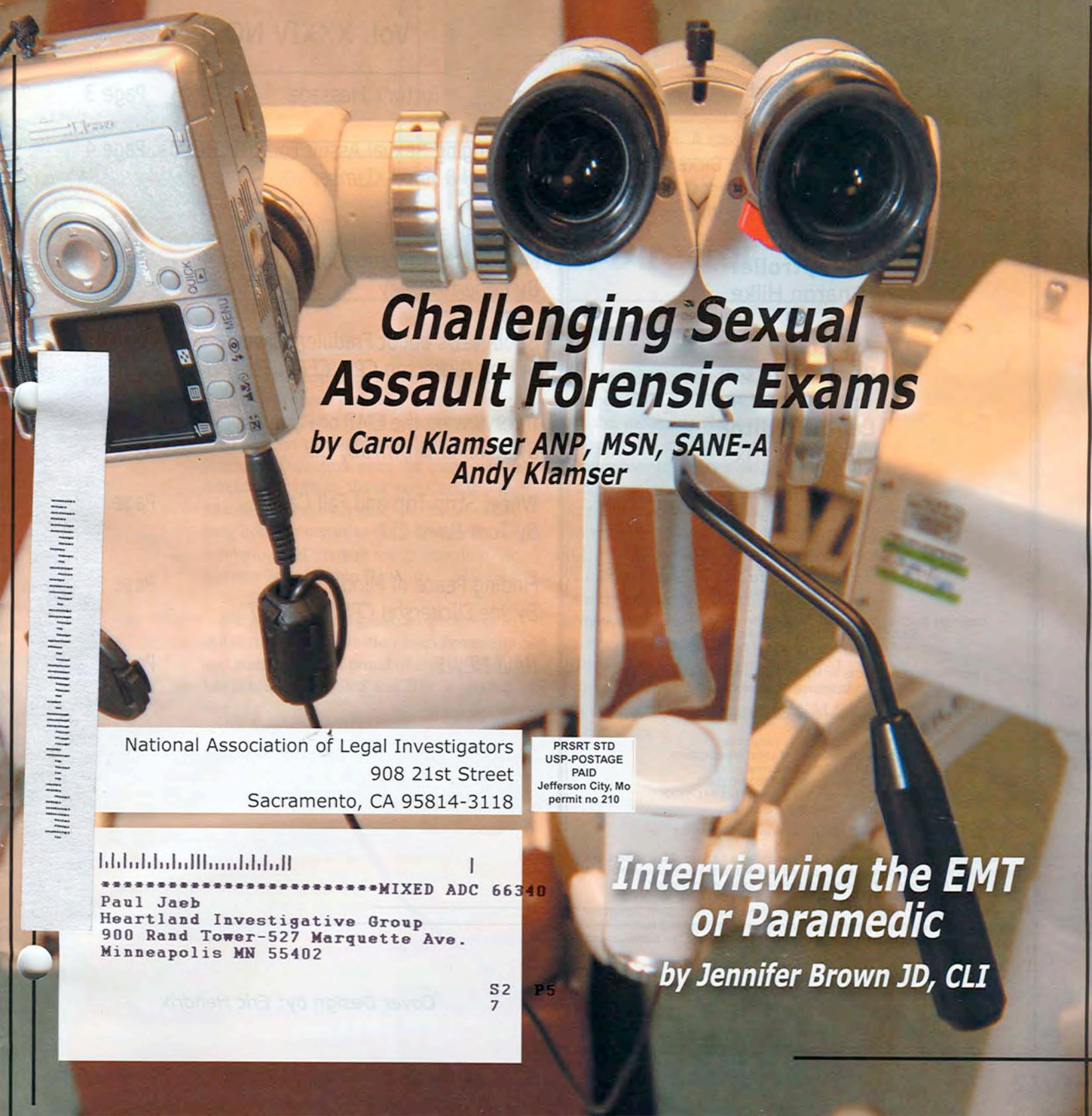




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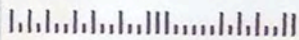


## **Challenging Sexual Assault Forensic Exams**

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## **Interviewing the EMT or Paramedic**

*by Jennifer Brown JD, CLI*

# Interviewing the EMT or Paramedic

by Jennifer L. Brown, JD, CLI

**I**n a personal injury case where there is a serious injury, EMTs, or Emergency Medical Technicians, and paramedics are often one of the first people to have contact with your client after an injury.

EMTs and paramedics can be invaluable resources for interviews in a personal injury case. However, in our litigious society, everyone is gun-shy about talking. Liability and other issues can complicate things—even if a paramedic wants to talk, he or she might have to get clearance from his or her superiors. There are some steps you can take to increase the chances of getting this very important interview, as well as information that you will want to get from those who treated your client.

Here is a breakdown of emergency service providers. Titles will vary by state, as will training and requirements:

The EMT-Basic, or EMT-B, or EMT-1., is trained to provide basic care at the scene and during transport to the hospital. Because they are often the first ones to arrive at the scene of an incident, most firefighters and police are trained as EMT-Basics. They have the emergency skills to assess a patient's condition and manage respiratory, cardiac, and trauma emergencies.<sup>1</sup> They have been trained to assess a patient's condition, as well as *manage* emergencies—in other words, they are there to keep things from getting worse.

The next level is an EMT-Intermediate, or EMT-2 (or 3). The EMT-Intermediate has more advanced training than the EMT-Basic. The EMT-Intermediate is also trained to use a defibrillator and use lifesaving techniques, such as CPR, and administer intravenous fluids.

The EMT-Paramedic, or EMT-4, has been trained to provide more intense care to the patient. They are able to make decisions about the care and treatment needed, and are authorized to administer drugs. They can also perform more advanced medical procedures, such as endotracheal intubations.<sup>2</sup> The EMT-Paramedic is typically the person who will be writing the report, and will likely be the best person to talk to about the patient.

Unfortunately, many of the EMTs are hesitant to talk about their patients. The Health Insurance Portability and Accountability Act of 1996, or HIPAA, has confused many providers about what information they can and cannot divulge to investigators. One of the objectives of HIPAA is to ensure that protected health information, or PHI, is not divulged without a patient's consent. Many EMTs have interpreted this to mean that they can never talk to anyone about a patient, under any circumstances.

Before you even attempt to conduct any interviews, you will need to have the patient (or his or her designated power of attorney) sign a HIPAA-compliant release. Many hospitals, ambulance service providers and even state regulations may require that a court order be issued in addition to a HIPAA-compliant release. Many attorneys tend to take the “shotgun” approach, that is, request “any and all” records pertaining to the patient, but this is not recommended, or even allowed under HIPAA. Noted below are the minimum requirements the healthcare providers will be looking for in an authorization form:

- A description of the information to be used or disclosed that identifies the information in a specific and meaningful fashion
- The name or other specific identification of the person(s) or class or persons authorized to make the requested use or disclosure
- A description of each purpose of the requested use or disclosure (i.e., litigation or claim evaluation, etc.)
- An expiration date or expiration of event (i.e., end of trial or a date one year from now)
- Signature of the patient (or designated power of attorney) and date

If the release of information is requested as a court order or in a dispute you must follow those specific guidelines in addition to the above minimum requirements.<sup>3</sup> Some hospitals may have even stricter requirements.

Once you have a HIPAA-compliant release and a court order or subpoena (if needed), you can start the process of trying to set up an interview with the paramedic who attended to your client, and obtain the run sheet, or run report. The run sheet is the report prepared by the paramedic of the interaction and treatment of your client. Run sheets are full of valuable information. The run sheets have a list of each crew member who attended to your client, which will assist you in determining who will be most useful to interview. It will also include the time the EMTs arrived on scene, had patient contact, made assessments, evaluated vital signs and took blood, or performed any other kind of treatments. It will also cover the arrival time at the hospital. Each state has its own requirements about what information is obtained on the run sheets. It's a good idea to become familiar with what information the run sheets contain, as well as commonly used abbreviations that medical staffs use.

Start by sending a letter detailing who you are and what information you are seeking to the company that transported your client (along with copies of the authorization form and court order). The ambulance company may be part of the hospital, or a separate entity. This information is available on the run sheet. With this request, the hospital or ambulance company will be able to connect you with the person you need to talk to. The run sheet will also "refresh" the memory of the person you're interviewing.

The run sheets contain a narrative or summary section—where the paramedic notes his objective observations on the patient and the situation. You will absolutely want to ask the paramedic about those notes and try to understand what made him take note of certain things. For example, you will want clarification on a statement such as "Odor of EtOH on Breath." Does that mean the patient was intoxicated? It could just mean that the paramedic noted the odor of alcohol on the patient's breath, which can occur after one drink. Make sure you understand what the paramedic was saying, and get on the same page factually.

The run sheets also provide specific information about what treatments were given by the paramedic staff. Ask why each treatment was given. Ask about any conversations the paramedic had with the patient. This can be a valuable source of information about what happened, or what caused the accident. Knowledge of the patient's demeanor immediately after an accident or injury could be useful information. A run sheet can also contain notes about the scene. Ask what the paramedic observed at the scene (Weather conditions? Other people around?) Ask what injuries the paramedic was anticipating during the initial assessment, and you may get a better picture of the scene.<sup>4</sup> This can also provide insight as to what initiated the call. The run sheets also provide information about where the patient was transported, so you can begin this process again with that entity.

(Footnotes)

<sup>1</sup> Bureau of Labor Statistics, U.S. Department of Labor, *Occupational Outlook Handbook, 2006-07 Edition*, Emergency Medical Technicians and Paramedics, on the Internet at <http://www.bls.gov/oco/ocos101.htm>

<sup>2</sup> Ibid.

<sup>3</sup> You can find the actual privacy regulation and download it from the following link: <http://www.hhs.gov/ocr/combinedregtext.pdf>. Refer to section 164.512(e).

<sup>4</sup> Curtis, CLI, EMT-1, Lynne. "Getting EMS Providers to Talk." *The Legal Investigator*. August 1998.



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