

**1. Does Safety Officer III have any liability under Labor Code 6423?**

No.

**2. Does the supervisor/manager have any liability under Labor Code 6423?**

Yes if Safety Officer III informed the supervisor/manager that the parts ordered were likely to or could fail in the near future.

[Back To](#)

[Top](#)

### Example 3.

General Worker IV goes to a crime scene at a private residence and uses a chemical to detect hidden blood (luminol), and chemically fume personal property for fingerprints (super glue – cyanoacrylate). Luminol is a hazardous chemical and may be carcinogenic but there is insufficient scientific data to conclude luminol is carcinogenic. Some employers prohibit the use of luminol. The super-glue treatment leaves a permanent film on the property, and the luminol treatment will leave some residual chemical behind. Some staff are concerned about luminol and will not use it. Because of these personal concerns and known hazards, these chemical treatments are not performed randomly and are only attempted when and where there is reason to believe that evidence may be developed.

**1. What personal liability would General Worker IV have for chemical contamination to private property in the performance of their duties?**

None if the work performed is within the scope of employment.

**2. What responsibility does the employer have if chemical contamination is left behind that may contaminate subsequent inhabitants (e.g., public's right to know laws)?**

Mr. Kazanjian felt a response here related more to environmental law than safety.

The class commented as follows:

Any required cleanup is the responsibility of the employer.

Some chemical applications are not visible and could be considered concealed. When there is a potential for a chemical exposure to a member of the public, and there is any substantial voice in the scientific community that luminol (or any other chemical) is a serious potential hazard, then the "service" laboratory should provide the investigating authority with the following information:

1. Name of person authorizing use of the chemical(s),
2. Name(s) of chemicals used,
3. Concentrations and amounts of chemicals used,
4. A description of the location(s) of chemical application(s), and
5. The statement – "It is recommended that the property owner of record be informed of the names, concentrations and amounts of chemicals and location(s) of chemical application."

[Back To](#)

[Top](#)

### Example 4.

General Worker IV (a Latent Print Analyst) is told that the presence of a "clandestine laboratory experienced criminalist" as required (by Clandestine Laboratory Manual of Instruction and Procedure) is not available. The LPAs supervisor then asks the LPA if "you would not mind going?" The LPA decides to go, and during the fieldwork a chemical exposure occurs.

**1. Does General Worker IV have any liability for the chemical exposure incurred?**

No.

**2. Does the supervisor of the LPA have any liability for the chemical exposure?**

Yes. The phrase "you would not mind going" is considered an order.

3. **Does the On-Site Supervisor who's responsibility includes ensuring "that the provisions of this [CLMIP] manual are adhered to by all personnel" have any liability for the chemical exposure?**

Yes.

## Example 4A.

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Example 3 involved the intentional use/application of a chemical at or on private property. If an accidental (non-intentional and non-negligent) chemical spill occurs by law enforcement or scientific personnel, on private property, during the course of their duties, i.e., "stuff happens".

1. **Does any member of the investigation team have any personal liability for the spill?**

No.

2. **Does the employer have liability for the spill and clean up?**

Yes.

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[Back To](#)  
[Top](#)