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The State of South Carolina
OFFICE OF THE ATTORNEY GENERAL

CHARLES M. CONDON
ATTORNEY GENERAL

March 29, 2002

The Honorable Scott F. Talley
Member, House of Representatives
P.O. Box 272
Spartanburg, South Carolina 29304

Re: Emergency Powers of Fire Districts
S.C. Code Ann. §6-11-1410 *et seq.*

Dear Representative Talley:

In a letter to this Office, you have requested an opinion on the above referenced provisions of the Code of Laws of South Carolina. You have attached a copy of a letter you received from Lewis J. Hayes, Chief of the Croft Fire District, which sets out the nature of the request. In chief Hayes letter, he presents the following:

Emergency Organizations [Fire, EMS, County] within Spartanburg County are now in planning for the operation of a medical Transport Helicopter located in Greenville County ...

During committee meetings to develop standard operating procedures, there have been strong indication that only EMT - Paramedic level personnel will be allowed to request the use of this helicopter ...

I believe that by not allowing the "Fire Authority" to be able to request this helicopter during an emergency would take away the authority granted to the fire department under the Emergency Powers of Fire Districts 6-11-1420 ...

S.C. Code Ann. §6-11-1420 provides in pertinent part that:

Notwithstanding any other provisions of law, authorized representatives of the Fire Authority having jurisdiction, as may be in charge at the scene of a fire or other emergency involving the protection of life or property or any part thereof, have the power and authority to direct such operation as may be necessary to

Robert L. ...

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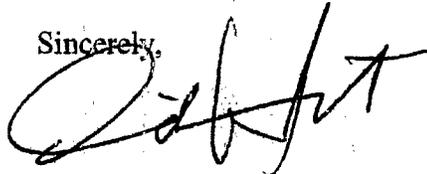
extinguish or control the fire, perform any rescue operation, ... and ... [take] ... any other action necessary in the reasonable performance of their duty.

In a prior opinion, this office was asked "... whether [§6-11-1420] automatically makes the fire chief in charge of a scene even though other public safety officials may be present and whether a fire chief would have authority over such other emergency services" See OP. ATTY. GEN. (Dated November 15, 1991). In responding, we noted that depending on the nature of the emergency and the locality, there may be a number of officials who would have jurisdiction for varying reasons" and concluded that "[§6-11-1420] does not appear to address the manner in which various officials should cooperate when such jurisdictions overlap ... depending on the facts and the officials involved, varying conclusions may be applicable." Id. We went on to state that "legislative clarification would be useful in resolving the issues." Id.

Unfortunately, the conclusion reached in the above opinion is applicable to the issues raised in your request. It can not be said, without examining the specific nature of the event and the officials involved, which public safety entity has operational control of the helicopter in question. Absent legislative clarification, perhaps the best solution is to address the situation through some sort of agreement among the emergency organizations involved.

This letter is an informal opinion only. It has been written by a designated Assistant Attorney General and represents the position of the undersigned attorney as to the specific question asked. It has not, however, been personally scrutinized by the Attorney General and not officially published in the manner of a formal opinion.

Sincerely,



David K. Avant
Assistant Attorney General