

7153 Liberty



The State of South Carolina
OFFICE OF THE ATTORNEY GENERAL

CHARLIE CONDON
ATTORNEY GENERAL

August 8, 2001

The Honorable J. Todd Hardee
Darlington County Coroner
315 Pearl Street
Darlington, SC 29532

Dear Coroner Hardee:

Your letter of April 24, 2001 was referred to me for response. Your correspondence addressed concerns you have about the local rescue squad taking pictures of deceased individuals at accident scenes.

You were not specific in your correspondence as to what reason might lie behind the rescue squad taking such pictures, or if these pictures are somehow displayed. If the pictures are taken for purposes of training, the use of such pictures could be an appropriate means of preparing emergency medical personnel for their role at the scene of a fatal accident. Furthermore, such pictures could also have evidentiary value and would be legitimate if taken for purposes of a potential criminal prosecution. However, if these pictures are taken for less official reasons, there are ways to address such actions.

There is a growing area of the law that is expanding liability to officials and agencies for the unauthorized and gratuitous display of photographs of the deceased and unauthorized appropriation of photographs of decedents' corpses. See Reid v. Pierce County, 961 P.2d 333 (1998), Williams v. City of Minneola, 575 So.2d 683 (1991). As the county council provides funding for the local rescue squad, the council would be interested in any activity that could potentially place the county at risk for litigation. Such cases have recognized that relatives of a decedent have a protectable privacy interest in the improper appropriation of photographs of decedents' corpses, and that custodians of public records may be subject to tort liability for any intentional communication of photographs outside of an official agency.

Additionally, local rescue squads are certified by the EMS division of the Department of Health and Environmental Control. This division has established professional standards for members of rescue squads and any behavior that deviates from these standards may be reported to the appropriate authority at the EMS division.

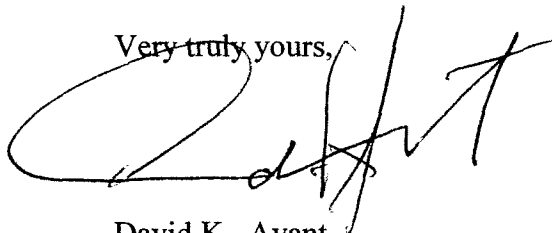
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Finally, this Office has consistently opined that autopsy records, including photographs, are confidential under state law. See Op. Atty. Gen., March 6, 2001, Op. Atty. Gen., October 27, 1981. This opinion has rested on the premise that public access to autopsy records invades the privacy of those persons having a property interest in the dead body itself and that it would be detrimental to the public interest to permit such access. While pictures taken by a rescue squad are not part of the autopsy records necessarily, since the rescue squad is normally the first responders to such a scene, any pictures the squad takes might have significant evidentiary and investigative value and has the potential to be included as part of the autopsy record. If included in the records, such pictures should remain confidential, but even if not included as part of the autopsy records, the same rationale that underlies the prohibition on disclosure of autopsy records to the public should apply to any public disclosure of pictures taken by a rescue squad. Such disclosure is prohibited because it "unreasonably invades the personal privacy of relatives and next of kin." Op. Atty. Gen., October 27, 1981. This assertion should in no way effect a valid request under the Freedom of Information Act.

I hope the information provided herein proves helpful. Please contact me if you have any further questions. This letter is an informal opinion only. It has been written by a designated Assistant Attorney General and represents the position of the undersigned as to the specific questions asked. It has not, however, been personally scrutinized by the Attorney General nor published in the manner of a formal opinion.

Very truly yours,

A handwritten signature in black ink, appearing to read 'D. Avant', with a large, stylized flourish extending from the end of the signature.

David K. Avant
Assistant Attorney General