



The State of South Carolina  
OFFICE OF THE ATTORNEY GENERAL

CHARLES MOLONY CONDON  
ATTORNEY GENERAL

March 22, 1995

The Honorable Jim Burnett  
Coroner, Spartanburg County  
366 North Church Street  
Spartanburg, South Carolina 29303

Re: Informal Opinion

Dear Coroner Burnett:

Attorney General Condon has referred your letter to me for reply. You note that, together with the Solicitor's Office, the Sheriff's Office and EMS personnel, you have designed "a policy to insure that very few people enter the crime scene after victims are checked for signs of life." You further state:

One problem we have is too many curious people responding to the scene just to view the scene out of curiosity. Most of the time EMS personnel or rescue personnel are first on the scene. We would like for you to research and determine if the Coroner can give permission to EMS and rescue personnel to secure the scene until either a member of the local police department or a coroner's investigator arrives at the scene. We, in the past, have asked them to tactfully request that no one goes in. If your opinion is that we can give them the authority to secure the scene until we arrive, it will help preserve the crime scene and the evidence.

We have addressed the relationship between the duties of law enforcement officers and coroners at the scene of a crime on several occasions previously. On October 7, 1976, for example, we considered this question at considerable length:

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There is nothing in the law of this State that gives to either coroners or police officers authority to direct or supervise the other in such investigation. Coroners are empowered by statute to conduct preliminary investigations into violent or unexplained deaths ... and police officers under the common law are empowered to prosecute those found to be criminally responsible. The situation is akin to that in which SLED officers are conducting an investigation into a crime that is also under investigation by a county sheriff. Both have full authority to investigate, but not to the exclusion of the other. Neither does either have authority to direct the other as to methods of investigation.

Former Attorney General McLeod also addressed the issue of jurisdiction at a crime scene in an opinion, dated October 31, 1973. There, he stated:

It is my opinion that where law enforcement officers are investigating an incident with a view to establishing whether any violation of law has been committed, the coroner in normal circumstances, should, where immediate action by the police officers is indicated, defer to the investigation by the police officers, and that where no immediate action by the police officers is required, that the law enforcement officers should defer to the coroner to enable him to carry out his duties. There is no precise answer as to which officials have primary jurisdiction, but the circumstances of each case must determine the priority of investigation. The basic answer to the question can only be that the law enforcement officers and the coroner must work together and in cooperation. The findings and determinations of each branch can often materially assist the other in the performance of their respective duties, and therefore the priority of jurisdiction should not arise. If it does arise, the only answer that I can give is that the immediate investigate needs of each must be weighed in the light of the circumstances existing, and one should defer to the other as those circumstances dictate.

See also, Op. Atty. Gen., January 5, 1994 ["ideally there should be cooperation between law enforcement and coroners in investigating a death."]; Op. Atty. Gen., April 26, 1984.

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Thus, we have made it clear that where a death has occurred, both the coroner and law enforcement officers have authority to investigate the crime scene. However, I cannot find where such authority could be delegated to county EMS or a rescue squad even as to the securing of the scene. As we have previously stated, "[i]t is well recognized that there must exist statutory authority for an administrative officer or agency to subdelegate any portion of the authority which has been delegated to him by statute." Op. Atty. Gen., No. 85-81, p. 217, 227 (August 10, 1985). I am able to find no statute whereby the General Assembly has authorized Emergency Medical Service personnel to secure the scene of a crime. See, S.C. Code Ann. § 44-61-10 et seq. [Emergency Medical Service Act of South Carolina contains no authority]; Compare, § 6-11-1420 ["Fire authority' having jurisdiction may prohibit any person, vehicle, vessel, or object from approaching the scene and may remove or cause to be removed or kept away from the scene any person, vehicle, vessel or object which may impede or interfere with the Fire Authority having jurisdiction."]

Moreover, as noted, we have previously concluded that the sheriff, as chief law enforcement officer of the county, together with the coroner "have prime responsibility" for investigating violent or unexplained deaths and that consequently, "[a]ny undue interference by anyone with such investigation could constitute the common-law crime of interfering with an officer in his line of duty (obstructing justice)." Op. Atty. Gen. March 17, 1972. This being the case, whoever secures a crime scene must have the authority to enforce such order pursuant to the foregoing. We have previously stated that a law enforcement officer cannot "delegate any authority he possesses as a police officer to another person ..." except to the extent he is empowered, by statute, to call upon bystanders to assist him in making an arrest or in defending himself against an unlawful assault.

I fully sympathize with your concerns and strongly support your view that the crime scene must be completely secured to preserve evidence intact and to insure that a thorough investigation is conducted. Nevertheless, I am of the opinion that the crime scene must remain completely under the jurisdiction of the Sheriff and Coroner. The Coroner is, of course, authorized to appoint deputies to assist him, pursuant to § 17-5-50, and those deputies possess the same authority as does the Coroner. However, I am doubtful that authority exists for you as Coroner to delegate to EMS or rescue squad personnel the power to secure the crime scene until Sheriff's deputies or Coroner's office personnel arrive at the scene. As we stated in a previous opinion, dated April 11, 1974, there are no state laws giving an emergency medical technician authority to direct persons at an accident scene, and "normally any law enforcement official present will be in overall charge ...". The opinion indicated that the principal function of EMS and rescue squad personnel must remain to render assistance at the scene. Therefore, only the General

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Assembly could authorize the use of EMS or rescue squad personnel to secure a crime scene. This being the case, you may wish to contact your local legislative delegation regarding this matter.

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 questions asked. It has not, however, been personally scrutinized by the Attorney General nor officially published in the manner of a formal opinion.

Very truly yours,



Robert D. Cook  
Deputy Attorney General

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