

Speech by: Robert Morgan

To: First Southeastern Rescue  
Squad Seminar

Place: Cullowee, North Carolina

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ON LAWS PERTAINING TO RESCUE SQUADS

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Let me tell you how much I appreciate your invitation to come to Western North Carolina this weekend and meet with you. I've looked forward to this trip for a long time because I believe it was almost a year ago that Dr. Hugh Archie Matthews first suggested that I attend this conference and serve as one of your speakers.

I am honored that you invited me and I didn't hesitate for a moment before accepting. I wanted to come and meet with you because I sincerely appreciate the very fine work which rescue squads have done in my section of the State, and I know that it is this same kind of service that you are performing wherever your units are located - whether in the flatlands of Harnett County or the mountains of Jackson.

I think a good illustration of the high esteem in which the public holds you is an incident which occurred in Dunn, North Carolina which is located near my own hometown. The rescue unit there needed a new emergency

vehicle and the local radio station had given time on Sunday for a marathon to raise the money. Many respected members of the community had been on the air during the course of the afternoon speaking on behalf of the unit and donations were coming in at a steady rate.

Then the telephone rang at the radio station and the caller identified herself as a tourist passing through North Carolina from Florida. She had heard the radio appeal and stopped to call and pledge a donation. She went on to state that recently her brother had been involved in a tragic accident, and it was through the services of a rescue unit located in another State that his life was saved. In appreciation for the work being done by rescue units throughout the country, she donated two thousand dollars to the Dunn rescue squad. This is a tremendous tribute to all of you, regardless of what town or community you serve.

Surely, to the members of the Dunn Rescue Unit, this woman was a Good Samaritan just as you are - Good Samaritans daily to accident victims

throughout our State. Your eagerness to train and develop life saving skills and your willingness to respond at any time of the day or night to an emergency situation truly have earned you the title of Good Samaritans.

It is about "Good Samaritans and the Law" that I was invited to speak tonight. I have tried to select and comment on those laws which directly affect you as members of rescue units and which might have raised questions in your minds concerning your duties as rescue unit volunteers.

A. THE LEGAL LIABILITY OF THE GOOD SAMARITAN

The North Carolina Constitution, Article 1, Section 35, provides that "every person for an injury done him in his lands, goods, person, or reputation, shall have remedy by due course of law."

This portion of the Constitution establishes our civil law, and, of course, it applies to one who is injured in an accident and receives aid

from a volunteer. A long series of cases has established the general rule that one who voluntarily undertakes to aid another is held to the exercise of reasonable care under the circumstances to protect the safety of the person he aids. (Prosser, Torts, 339)

However, the care that is reasonable in an emergency situation is only that degree of care that would be exercised by a reasonable man in a like emergency situation. Hence, one would not measure acts done under the strain and excitement of an emergency situation by the same standard as one would acts performed in the cool of a non-emergency situation.

For example, not long ago there was a train wreck in Wake County, and a local rescue unit responded. A man was trapped and in immediate danger of being burned to death. He had to be removed immediately by some means.

Members of the rescue squad used the method that they thought would free him soonest. It was

not necessarily the safest way if time were not a factor. But, under the circumstances, it was the only way the volunteers could find to rescue him.

Had the victim been injured in removing him and a lawsuit brought, the court would have taken into consideration that time was the deciding factor. The court would not say that members of the rescue squad were required to use the same techniques in every situation but would rather look to the facts in this particular rescue operation to determine if what was done was what other reasonable men would have done under like circumstances.

North Carolina and many other States have singled out the motor vehicle accident as a special case and passed "Good Samaritan" statutes which change the standard by which negligent acts are measured and consequently limit the acts from which civil damages may arise.

General Statute 20-166(d) provides that:  
"Any person who renders first aid or emergency

assistance at the scene of a motor vehicle accident on any street or highway to any person injured as a result of an accident, shall not be liable in civil damages for any acts or omissions relating to such services rendered, unless such acts or omissions amount to wanton conduct or intentional wrongdoing."

I think it is obvious to all of us why this law was passed. It was to encourage persons passing the scene of auto accidents to stop and render assistance by removing the possibility of liability for negligence.

We see that the Legislature in North Carolina has limited liability to acts or omissions which amount to wanton conduct or intentional wrongdoing. What do we mean by "wanton conduct or intentional wrongdoing?"

Needless to say, wanton conduct goes a step beyond mere negligence. Wantonness implies intentional wrongdoing. Wanton conduct is conduct which is in "conscious and intentional disregard of and indifference to the rights and safety of others."

HINSON V. DAWSON, 244 NC23 (1956)

For example, I think it would be wanton conduct for a member of a rescue unit to try to aid accident victims while in an intoxicated condition. Surely if some additional injury resulted from the fact that the volunteer was intoxicated, the court might well say that his action was committed in intentional disregard and indifference to the rights and safety of the victim.

You can see how the court might arrive at a similar conclusion if one of your members was participating in a rescue operation and left accident victims unattended because he was late for an important meeting of his local civic club.

I think you can understand, then, the kind of extreme acts for which the law of this State still holds you liable when assisting victims of auto accidents.

The North Carolina Legislature took a great step in the direction of protecting you from civil liability arising from the treatment of auto accident victims when it passed the "Good Samaritan"

statute limiting your liability to intentional wrongdoing.

B. TRAFFIC LAWS RELATING TO HORNS, LIGHTS, SPEED, RIGHT-OF-WAY

What about traveling to and from an accident? What are the laws regulating the kinds of vehicular warning equipment you may use?

(1) Red Lights

G.S. 20-130.1 generally prohibits any person from operating a vehicle on the highways of the State while displaying red lights visible from the front of the said vehicle. There are exceptions to this prohibition, one of which applies to "vehicles of a voluntary life-saving organization that have been officially approved by the local police authorities and manned or operated by members of such organization while on official call." This is you, of course.

This section would authorize life-saving organizations to have vehicles owned by the organization

equipped with red lights visible from the front of the vehicle. This section however is not broad enough to permit the use of red lights on automobiles owned by members of a voluntary rescue squad.

(2) Sirens and Warnings

G.S. 20-125 prohibits the use of sirens on vehicles other than certain police and emergency vehicles which are set out in the statute. The vehicles which are excepted from the general prohibition and which must or may be equipped with "... special lights, bells, sirens, horns or exhaust whistles of a type approved by the Commissioner of Motor Vehicles ..." includes "... every ambulance used for answering emergency calls ..." but makes no particular reference to vehicles owned and operated by rescue squads.

However, it should be noted that the statute states that "... the chief and assistant chiefs of each emergency rescue squad which is recognized or sponsored by any municipality or civil defense agency, are"..." authorized to use such equipment on privately owned vehicle operated by them while actually engaged in

their official duties or services ..."

Actual equipment owned or used by rescue squads could be placed into a number of categories and in so doing, each piece of equipment may or may not fall within the various exemptions to the rules of the road and equipment requirements according to their specific classification. For example, only the chief and assistant chiefs of a rescue squad may use a red light on their privately owned vehicles, as previously stated. Similarly, a rescue squad truck is not exempt from the speed restrictions while a rescue squad vehicle which falls within the definition of an ambulance when properly certified and equipped with proper warning devices may operate upon the highways as any other public or private ambulance.

### (3) Speed Restrictions

One area which may be of particular concern pertains to speed limit restrictions on rescue squad trucks.

G.S. 20-141 generally covers speed restrictions for the operation of motor vehicles on the highways of the State; however, under G.S. 20-145 certain exceptions are made to the general speed limitations. Although public or private ambulances when traveling in emergencies are listed as an exception to speed law limitations, one does not find vehicles of life-saving organizations and rescue squad organizations are listed specifically among the exceptions set forth in G.S. 20-145.

Therefore, under the present statutory law, rescue squad trucks are not authorized as an exception to G.S. 20-141 and consequently must comply with all speed regulations. However, ambulances belonging to rescue squads which have been certified as such pursuant to ambulance regulations and are equipped with proper warning devices are in fact private ambulances and may operate upon the highways as any other private ambulance. We should keep in mind the speed exemption does not protect the driver of any such vehicle from the consequence of a reckless disregard of the safety of others.

#### (4) Right-of-Way

Also, G.S. 20-156, dealing with exceptions to the right-of-way rule, states that "The driver of a vehicle entering a public highway from a private road or drive shall yield the right-of-way to all vehicles approaching on such public highway." Once again public and private ambulances are included as exceptions but vehicles of life-saving organization are not listed among the exceptions and therefore must comply with all right-of-way regulations.

Rescue squads which may have vehicles certified under ambulance regulations still have the duty to drive with due regard for the safety of all persons using the highway, nor shall the exceptions protect the driver of any such vehicle from the consequence of any arbitrary exercise of such right-of-way.

#### C. DOUBLE-OFFICE HOLDING

Another area of law which may be of some interest, concerns whether a member of a rescue squad is considered a public officer. The Attorney

General's Office took the view that he was not, until G.S. 20-114.1 was enacted in 1961.

This statute authorizes volunteer members of a rescue squad to divert and enforce traffic laws and ordinances at the scene of accidents in connection with their duties. Except as provided therein rescue squads shall not be considered law enforcement officers.

No cases have construed this statute. However, this statute confers the power of arrest upon rescue squad members at the scene of an accident. Thus, this power of arrest would constitute a member of a rescue squad a public officer.

Therefore, under Article XIV, Section 7, of the North Carolina Constitution, which prohibits a person from holding two public offices at one time, it appears that a rescue squad member may not hold another public office.

D. ASSAULT ON EMERGENCY PERSONNEL

On a somewhat different nature is a statute enacted by the last General Assembly which applies only to a situation in which a "declared state of emergency" exists or within the immediate vicinity in which a riot is occurring or is imminent.

G.S. 14-288.9(c) provides that in such a situation "Any person who commits an assault upon emergency personnel (which includes rescue squad personnel) is guilty of a misdemeanor ... Any person who commits an assault upon emergency personnel with or through the use of any dangerous weapon or substance is guilty of a felony punishable by fine not to exceed \$10,000 or imprisonment for not more than five years, or both such fine and imprisonment."

Before this law was enacted, an assault upon emergency personnel even with a deadly weapon was only a misdemeanor unless serious bodily injury was inflicted.

#### E. WORKMEN'S COMPENSATION

As many of you are familiar, members of rescue squads are protected under our Workmen's Compensation statute G.S. 97-2(5). Under G.S. 97-2(5) members who have suffered disabling injury or death under compensable circumstances, compensation is calculated upon the average weekly wage the member of the organized rescue squad was earning in the employment whereon he principally earned his livelihood as of the date of injury.

However, G.S. 97-2 of this same section states that executive officers of non-profit organizations do not come within the term of employee and, therefore, are not covered by Workmen's Compensation. An executive officer, however, can be brought within the Workmen's Compensation Act by specifically including such executive officer in such contract of insurance.

#### F. TERMINATION OF SERVICES

The last area of law in which you may be interested concerns when the duty of the rescue squad

member to the accident victim ends. The duty to the victim generally is terminated when the emergency state of the victim has passed, when the victim has been admitted to a hospital or accepted by a qualified medical doctor or delivered into the care of one who should reasonably be capable of caring for the accident victim.

You might ask why you should really be concerned about clearing up some of these areas that now appear hazy. If you have the cooperation of law enforcement officers in your area, why should you be concerned about possible technical violations.

The answer is that should you become involved in a civil suit for injuries involved in an accident while you are rushing to an accident scene, these very technicalities will be raised and your liability might well turn upon one of these statutes.

So I think it is to your advantage as rescue units and individuals to have your rights and limitations spelled out as clearly as possible. I

think you should know beyond any question when you have the protection of the law and when you do not.

#### SUMMATION

In reviewing the statutes for this meeting today, it occurred to me that there may be a need for members of your group to look at existing laws with an eye toward clarification or revision.

For example, I stated that it seems that members of rescue squads now fall within the definition of public officers and, therefore, because of Constitutional restrictions, possibly should not be holding other positions such as city councilman, county commissioner, or policeman. I see no real reason for this restriction, and it might be that you would want legislation enacted to correct it.

Another area you might want to consider is speed and right-of-way restrictions on rescue squad trucks. If your rescue trucks have not been certified as

ambulances, then the law seems to say that you may not, even under emergency conditions, exceed the speed limit or violate traffic ordinances.

This talk is very special to me because of the character of the people here. There are not many people who volunteer to go at any time, under any circumstances no matter how dangerous, to aid their neighbors. There are not many people who will take their time and their money to go to Raleigh or Greensboro for emergency training courses. I realize that many of you have salaried jobs and must sometimes leave your employment when called, and I also realize that many rescue squads during the first years of organization met with scepticism and have had to prove themselves to their community.

I hope by this talk that you may have a better idea of how the laws pertain to you as rescue squad members. I also hope that the First Southeastern Rescue Squad Seminar by being publicized will bring the attention and praise to rescue squad members that they deserve because as the public becomes better informed about your activities they will give you greater and greater support.

Speech by: Robert Morgan  
Attorney General

To: Community Service and  
Continuing Education Center  
of the University of North Carolina  
at Charlotte

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ON THE CRIMINAL JUSTICE SYSTEM

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