

RESCUE SQUADS  
THE LAW AND THE GOOD SAMARITAN

Prepared by

ROBERT MORGAN  
Attorney General of North Carolina

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## RESCUE SQUADS:

### THE LAW AND THE GOOD SAMARITAN

#### A. THE LEGAL LIABILITY OF THE GOOD SAMARITAN

The recently revised North Carolina Constitution, Article I, Section 18, 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, 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 quickly by some means.

Members of the rescue squad used the method 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 are 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."

It is obvious 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.

Thus, 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 NC 23 (1956).

For example, 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.

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

One can understand, then, the kind of extreme acts for which the law of this State still holds rescue squad members liable when assisting victims of auto accidents.

The North Carolina Legislature took a great step in the direction of protecting volunteers from civil liability arising from the treatment of auto accident victims when it passed the "Good Samaritan" statute limiting 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 includes, of course, rescue squad vehicles.

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 ...".

### 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, G. S. 20-145 makes certain exceptions to the general speed limitations. The 1971 General Assembly amended this section to include all "rescue squad emergency vehicles" in the list of those vehicles exempted.

G. S. 20-145 now reads, in pertinent part, as follows:

"§20-145. When speed limit not applicable.--The speed limitations set forth in this Article shall not apply to ... rescue squad emergency service vehicles when traveling in emergencies ....

"This exemption shall not, however, protect the driver of any such vehicle from the consequence of a reckless disregard of the safety of others."

### 4. Right-of-Way

G. S. 20-156, dealing with exceptions of 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." The 1971 General Assembly specifically exempted all "rescue squad emergency service vehicles" and such vehicles no longer are required by law to comply with all right-of-way regulations.

The statute reads, in pertinent part, as follows:  
"\$20-156(b). The driver of a vehicle upon a highway shall yield the right-of-way to ... rescue squad emergency service vehicles when the latter are operated upon official business and the drivers thereof giving warning signal by appropriate light and by bell, siren or exhaust whistle audible under normal conditions from a distance not less than one thousand feet. This provision shall not operate to relieve the driver of a ... rescue squad emergency service vehicle from the duty to drive with due regard for the safety of all persons using the highway, nor shall it protect the driver of any such vehicle from the consequence of any arbitrary exercise of such right-of-way."

All rescue squad emergency vehicles now are treated alike by the law as to speed and right-of-way provisions. Prior to the 1971 General Assembly, rescue squad vehicles which were certified as ambulances were exempted from certain speed restrictions and right-of-way provisions but other rescue squad emergency vehicles were not. These distinctions have been eliminated.

##### 5. Approach of Rescue Squad Service Emergency Vehicles

Prior to 1971, G. S. 20-157 required that the operator of any vehicle drive on to the shoulder of the road and stop upon



hearing the bell, siren or exhaust whistle of a police or fire department vehicle. The 1971 General Assembly amended this statute to include rescue squad emergency service vehicles and adds the additional requirement of a warning light. It now reads in pertinent part as follows:

"G.S. 20-157. Approach ... of Rescue Squad Vehicles.--

(a) Upon the approach of any ... rescue squad emergency service vehicle giving warning signal by appropriate light and audible bell, siren or exhaust whistle, audible under normal conditions from a distance not less than 1000 feet, the driver of every other vehicle shall immediately drive the same to a position as near as possible and parallel to the right-hand edge or curb, clear of any intersection of streets or highways, and shall stop and remain in such position unless otherwise directed by a police or traffic officer until ... rescue squad emergency service vehicle shall have passed. Provided however, this subsection shall not apply to vehicles traveling in the opposite direction of the vehicles herein enumerated when traveling on a four-lane limited access highway with a median divider dividing the highway for vehicles traveling in opposite directions and provided further that the violation of this subsection shall not be negligence per se.

....

"(e) It shall be unlawful for the driver of a vehicle, other than one on official business, to park and leave standing such vehicle within 100 feet of ... rescue squad emergency vehicles which are engaged in the investigation of an accident or engaged in rendering assistance to victims of such accident."

It appears, however, that other drivers are required to pull over and stop only upon the approach of a certified ambulance operated by a rescue squad unit. Other rescue squad vehicles are prohibited from using special sound devices, and, consequently, could not meet the requirement of both "appropriate light and audible bell, siren or exhaust whistle ..." Whether the Legislature intended to include all rescue squad emergency vehicles is not clear and an effort to clarify this section should be made at a subsequent Legislative session.

#### 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, enacted in 1961, was amended by the 1969 General Assembly to include rescue squad volunteers.

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.

Article VI, Section 9 of the Constitution of North Carolina, which became effective July 1, 1971, contains two absolute prohibitions concerning double office holding, but neither affects rescue squad volunteers since these prohibitions deal with public offices filled by election by the people. However, the Constitution goes on to prohibit any person from holding at the same time "any two or more appointive offices or places of trust or profit, or any combination of elective and appointive offices or places of trust or profit, except as the General Assembly shall provide by general law."

The 1971 General Assembly moved quickly to make provisions in the General Statutes consistent with the Constitution by amending G. S. 128-1 by enacting a new section G. S. 128-1.1, which permits double office holding in three situations:

- (1) a person holding an appointive office, place of trust or profit in State or local government may hold concurrently one other appointive office in State or local government;

(2) a person holding an elective office in State or local government may hold concurrently one other appointive office in State or local government;

(3) a person who holds an office or position in the federal postal system is authorized to hold concurrently one appointive position in State or local government.

D. ASSAULT ON EMERGENCY PERSONNEL

In a somewhat different nature is a statute enacted by the 1969 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

Members of rescue squads are protected under the Workmen's Compensation statute. G. S. 97-2(5) provides that members who have suffered disabling injury or death under compensable circumstances, shall receive compensation 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

A final related area of law 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 reasonably should be capable of caring for the accident victim.

One might ask why a volunteer should be concerned about the exact provisions of the law. If one has the cooperation of law enforcement officers in his area, why should he be concerned about possible technical violations?

The answer is that should the volunteer become involved in a civil suit for injuries involved in an accident while he is rushing to an accident scene, technicalities may be raised and his liability might well turn upon one of these statutes.

Therefore, it is to the advantage of rescue units and individuals to have their rights and limitations spelled out as clearly as possible. One should know beyond any question when he has the protection of the law and when he does not.