

December 28, 2006
OPINION NUMBER 05-0257

Honorable Kevin P. Doise
Constable Ward 2, Allen Parish
P.O. Box 1074
Kinder, LA 70648

64-B Military Department
84 - Parishes

Dear Mr. Doise:

The Parish Office of Homeland Security and Emergency preparedness, under the direction of the parish president, has authority to take over the scene of a disaster only in the event of a formal declaration of emergency by the parish president pursuant to LA. R.S. 29:722 *et seq.*

We are in receipt of your request for an Attorney General opinion. You question whether in the event of an emergency, the Parish Office of Homeland Security and Emergency Preparedness has the right to take over the scene of an accident and refuse other emergency personnel from entering the scene. As per your conversation with our office and pursuant to your request letter, you are searching for a clear definition of the legal jurisdiction and responsibilities of the Parish Office of Homeland Security and Emergency Preparedness in emergency situations not classified as disasters within a given parish.

The Louisiana Homeland Security and Emergency Assistance and Disaster Act ("Emergency and Disaster Act"), *LSA-R.S. 29:722 et seq.*, provides that, local disasters or emergencies may be declared by the parish president pursuant to *LSA-R.S. 29:727(D)*. The Emergency and Disaster Act also provides for the creation of a homeland security and emergency preparedness agency, under the direct control of the parish president. Such an agency is responsible for emergency or disaster mitigation, preparedness, response, and recovery. *Id.*

Under the direction and control of the parish president, the parish office of homeland security and emergency preparedness can "[c]ontrol ingress and egress to and from the affected area, the movement of persons within the area, and the occupancy of premises therein." LA. R.S. 29:727(F)(7) (2006). However, the statute is clear that none of the powers conferred upon the parish agency or parish president shall be construed to direct or control the activities of a state agency. Therefore state police, as a governmental entity listed in your letter, could enter the scene of an emergency without restriction to carry out their statutory duties.

With respect to the other parish law enforcement or first response entities, the parish office of homeland security would only have total jurisdiction to control the ingress and egress of an emergency scene if a local emergency had been

declared by the parish president. The provisions of section 727 of the Emergency and Disaster Act shall be carried out by the parish president during a declared local emergency. LA. R.S. 29:722 *et. seq.*, *see also* R.S. 29:727(E). Outside of a formally declared emergency by the parish president, the sheriff's office, fire department and ambulance services would have jurisdiction to enter the scene of an automobile accident, as you described in your letter, to perform their statutory or contractual duties.

It is important to note that the Emergency and Disaster Act encourages cooperation among governmental agencies during a declared emergency. The parish president is mandated to "[u]tilize all available resources of the local government as reasonably necessary to cope with the local disaster or emergency." LA. R.S. 29:727(F)(2) (2006). Additionally, the Act mandates cooperation among other federal, state and local governmental entities. LA. R.S. 29:729(B)(11) (2006).

We hope this opinion has sufficiently addressed your concerns. If our office may be of further assistance, please do not hesitate to contact us.

Sincerely,

CHARLES C. FOTI, JR.
ATTORNEY GENERAL

By: _____
MYERS P. NAMIE
Assistant Attorney General

SYLLABUS

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Myers P. Namie
Assistant Attorney General