



2010-103

STATE OF ALABAMA  
OFFICE OF THE ATTORNEY GENERAL

September 9, 2010

TROY KING  
ATTORNEY GENERAL

500 DEXTER AVENUE  
MONTGOMERY, AL 36130  
(334) 242-7300  
WWW.AGO.STATE.AL.US

Honorable John Hollis Jackson, Jr.  
Attorney, City of Jemison  
Jackson and Jackson  
Post Office Box 1818  
Clanton, Alabama 35046

Municipalities – Volunteer Fire  
Departments – Police Jurisdiction –  
Emergencies – Chilton County

A municipality's authority over fire protection and rescue services in the police jurisdiction is not exclusive. If, however, a municipality undertakes to provide fire protection in its police jurisdiction, the services provided in the police jurisdiction should be provided equally throughout the police jurisdiction.

E-911 boards, municipalities, and volunteer fire departments should work together to ensure the most efficient service to persons in their districts. A municipality may contract with a volunteer fire department to provide service in a portion of the police jurisdiction, provided that the protection is equal to that provided elsewhere in the jurisdiction. The municipality may contract with an E-911 board.

Dear Mr. Jackson:

This opinion of the Attorney General is issued in response to your request on behalf of the City of Jemison.

### QUESTIONS

When a municipality's annexation expands the police jurisdiction, does the municipality have the exclusive right to provide fire and rescue services in the jurisdiction, even though it was previously served by a volunteer fire department?

Does an E-911 board have the authority to impose dual dispatching in a municipality's police jurisdiction?

### FACTS AND ANALYSIS

Your request states as follows:

The City of Jemison is in northern Chilton County. The E-911 Board of Chilton County ("Board") is the sole source of dispatching for all fire departments and rescue services, including ambulances, in the county. North Chilton Volunteer Fire Department ("North Chilton") is a nonprofit corporation providing fire and rescue services for a service area originally outside any municipal boundaries.

Over the past several years, the city has annexed several areas, which has expanded the city's police jurisdiction. In one location, the jurisdiction has expanded into part of North Chilton's service area. By ordinance adopted in 2000, the city elected to collect license taxes in the jurisdiction. Therefore, the city was obligated to provide services in the jurisdiction and requested the E-911 Board to discontinue dispatching North Chilton there. The Board complied, but North Chilton objected that it was still responsible for the area and would be liable for not providing service. The Board decided to dispatch both North Chilton and the municipal fire department in the jurisdiction. As a result,

Honorable Hollis Jackson, Jr.  
Page 3

numerous logistical problems have developed, making the new dispatch system unworkable and dangerous to the public.

A municipal police jurisdiction is established pursuant to section 11-40-10 of the Code of Alabama, which states, in pertinent part, as follows:

The police jurisdiction in cities having 6,000 or more inhabitants shall cover all adjoining territory within three miles of the corporate limits, and in cities having less than 6,000 inhabitants and in towns, such police jurisdiction shall extend also to the adjoining territory within a mile and a half of the corporate limits of such city or town.

ALA. CODE § 11-40-10 (2008).

This Office has explained, as follows, a municipality's authority to provide fire protection in the police jurisdiction:

"No direct authority exists for a municipality to provide fire protection within the police jurisdiction. This authority is implied by, and is necessarily incident to, the power of a municipality to provide for the health, welfare and sanitation in the police jurisdiction. Section 11-40-10, Code of Alabama, 1975. In addition, the power to levy license taxes in the police jurisdiction under the police power implies the authority of the municipality to provide protection services. Section 11-51-91, Code of Alabama, 1975. While the power exists, it is not imposed as a mandatory duty upon a municipality. Municipalities have adopted a variety of policies for fire protection services in the police jurisdiction."

Opinion to Honorable Timothy B. Coe, Mayor, Town of Wedowee, dated July 25, 1997, A.G. No. 97-00234, at 2, *quoting* Alabama League of Municipalities, *Selected Readings for the Municipal Official* 68-69 (1996). *See*, Alabama League of Municipalities, *Selected Readings for the*

Honorable Hollis Jackson, Jr.  
Page 4

*Municipal Official 408 (2004)*. These sections do not prohibit other private or public entities from providing fire protection and rescue services in the police jurisdiction.

Regarding your second question, an E-911 board "must . . . make the decisions as to how the E-911 services are to be provided within a city or its police jurisdiction." Opinion to Honorable Darwin Clark, Chairman, Lawrence County E-911 Communications Board, dated October 20, 2003, A.G. No. 2004-009, at 2. Therefore, this Office has concluded that an E-911 board is authorized to determine if volunteer fire departments and rescue squads are to be dispatched as primary responders to a request for emergency services. Opinion to Honorable Mark D. Ryan, Attorney, Baldwin County Emergency Communications District, dated December 13, 2006, A.G. No. 2007-021. That opinion reasoned as follows:

The board of commissioners is to govern the affairs of the emergency communications district. ALA. CODE § 11-98-4(a) (Supp. 2006). This Office has stated on several occasions that the sole authority for determining which ambulance providers receive dispatch calls rests with the board of commissioners or directors of the emergency communications district. Opinion to Honorable Rebecca Narmore, Attorney, Colbert County E-911, dated March 10, 2005, A.G. No. 2005-088 at 2-3; opinion to Honorable Darwin Clark, Chairman, Lawrence County E-911 Communications Board, dated October 20, 2003, A.G. No. 2004-009 at 2; and opinion to Honorable Roy Sanderson, Mayor, City of Rainsville, dated June 19, 1997, A.G. No. 97-00210 at 3.

*Id.* at 4. Consistent with these opinions, the E-911 Board has the authority to determine if a municipal or volunteer fire department, or both, are to receive dispatch calls, and if the latter, whether the departments are dispatched as primary, secondary, or third responders.

This Office has urged cooperation in similar instances of overlapping jurisdictions between fire districts and municipal police jurisdictions, stating, for example, as follows:

[T]he municipality and the fire district should cooperate with each other in areas where the municipality and the fire district are both authorized to answer fire calls. The citizens of Tuscaloosa County will be best served if first priority is given to the entity which can most efficiently and quickly answer the calls when dispatched.

Opinion to Honorable W. Cameron Parsons, Attorney, Carroll's Creek Fire District, dated April 21, 1997, A.G. No. 97-00164, at 5. Likewise, the *Clark* opinion advised that "E-911 boards should work with municipalities and ambulance service providers to ensure the best, most efficient service to persons in their districts." *Clark*, at 3.

This Office has previously stated that if a municipality has elected to provide fire protection in its police jurisdiction, these services must be provided equally to all areas in the police jurisdiction. Opinion to Honorable John B. Nisbet, Jr., Mayor, City of Jacksonville, dated April 24, 1992, A.G. No. 92-00260. A municipality may contract with a volunteer fire department to provide fire protection in a portion of the police jurisdiction, provided that the fire protection is equal to that provided elsewhere in the jurisdiction. A municipality may also contract with an E-911 board. *Clark*, at 2. Based upon these considerations, the E-911 board, the municipality, and the volunteer fire department should work together to reach an agreement that ensures that the most efficient service is provided to all the persons in the service area.

### CONCLUSION

A municipality's authority over fire protection and rescue services in the police jurisdiction is not exclusive. If, however, a municipality undertakes to provide fire protection in its police jurisdiction, the services provided in the police jurisdiction should be provided equally throughout the police jurisdiction.

E-911 boards, municipalities, and volunteer fire departments should work together to ensure the most efficient service to persons in their districts. A municipality may contract with a volunteer fire department to provide service in a portion of the police jurisdiction, provided that the protection is equal to that provided elsewhere in the jurisdiction and the municipality may contract with an E-911 board.

Honorable Hollis Jackson, Jr.  
Page 6

I hope this opinion answers your questions. If this Office can be of further assistance, please contact Ward Beeson of my staff.

Sincerely,

TROY KING  
Attorney General

By:

A handwritten signature in cursive script that reads "Brenda F. Smith".

BRENDA F. SMITH  
Chief, Opinions Division

TK/GWB

1017542/144768