



Open Learning Fire Science Program

**Political and Legal Foundations of Fire Protections
Adjunct Professor Lawrence T. Bennett
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**Crossing the Line: Providing Emergency Services
in Indiana**

**By: Stephen J. Ward
sjw171@yahoo.com**

It happens everyday, while it's routine by almost every fire department in Hamilton County, Ohio. While firefighters associate it as just another part of their job, sometimes citizens who we serve and protect look at us confused in their time of need. What am I referring to one may ask them self? In one way, shape or form, many of the forty-three (43) fire departments represented in Hamilton County, Ohio cross their political subdivision line to provide emergency medical care.¹ Many of them provide mutual aid and some have contractual agreements to provide emergency services to their neighboring communities.

The Harrison Fire Department is like most of those forty-three (43) fire departments but it has the one and only exception. The Harrison Fire Department is the only fire department in Hamilton County, Ohio who is contractually obligated to provide basic emergency medical services in another state. That state of course being the state of Indiana.

The City of Harrison is located in southwestern Ohio, twenty-five (25) miles northwest of Cincinnati along the Whitewater River bordering the Ohio and Indiana state lines. The population of Harrison is 8,313.² The Harrison Fire Department currently has two (2) fire stations with a total of eight (8) firefighters on everyday to provide emergency services. The unique feature of the Harrison Fire Department is that twenty-six (26) of the forty-four square miles are located in the state of Indiana. All of the municipalities are located within the boundaries of Dearborn County, Indiana. The municipalities that are comprised of those twenty-six (26) square miles in Indiana are as follows: parts of Logan Township, Kelso Township, Harrison Township, and the Town of West Harrison

(Appendix A). The Harrison Fire Department is currently obligated by a contractual agreement to provide emergency services to those respective municipalities (Appendix B). Furthermore, The Harrison Fire Department also provides emergency services upon mutual aid request to other municipalities in Dearborn and Franklin Counties. A total of eight (8) percent of all emergency service incidents originate in the state of Indiana for the Harrison Fire Department.³ Those numbers are expected to increase as more and more rural areas of Indiana become more developed.

This raises an important question. How can a fire department cross the state line and provide services to citizens in another state? Does each respective state have a code or ordinance in place addressing this issue?

For Ohio fire departments such as the Harrison Fire Department that provide emergency medical services outside of the state of Ohio there is currently no language in the Ohio Revised Code that addresses this topic. It is the opinion of the Department of EMS for the state of Ohio, that since Ohio fire departments are crossing the state line, Ohio law will not apply.⁴ It will be the responsibility for that state to have a code or ordinance in place. The state of Ohio does have the very thing in the Ohio Revised Code 4765.50 (D). It states the following:

(D) A person who is performing the functions of a first responder, EMT-basic, EMT-I, or paramedic under the authority of the laws of a jurisdiction other than this state, who is employed by or serves as a volunteer with an emergency medical service organization based in that state, and provides emergency medical services to or transportation of a

3. Harrison Fire Department, Yearly Report-2006

patient in this state is not in violation of division (A) of this section

A person who is performing the functions of a first responder, EMT-basic, EMT-I, or paramedic under a reciprocal agreement authorized by section 4765.10 of the Revised Code is not in violation of division (A) of this section. 5

This section of the Ohio Revised Code was intended to allow for mutual aid, allow out-of-state emergency medical technicians to bring their patients into Ohio, and to allow emergency medical technicians to pick up their patients here in Ohio and take them back to their home state.

Since 1955 many residents of the state of Indiana have been provided with emergency medical services because of a contractual agreement.⁶ Currently, the Harrison Fire Department is in contract negotiations with the different municipalities it provides emergency services for. At one point during the negotiations the question was asked if the services of the Harrison Fire Department were still needed.⁷ The Board of Commissioners of Dearborn County Indiana were taking that very question into consideration. With the recent years of economical growth, growing communities, and the ongoing financial contributions of the gambling casinos, they were trying to determine if it was time to let some of the local volunteer fire departments provide emergency services to their own citizens. Finally it was determined to allow the Harrison Fire Department to continue to deliver its services to the citizens of Indiana. There were a few reasons for this decision. Some of their concerns had to deal with staffing, response times and level of care or service that could be provided.

5. Ohio Revised Code, ORC 4765.50 (D)

The volunteer fire departments that would be in close proximity of those municipalities do not provide around the clock staffing. Because of that, their response times are longer. Also, they can only provide emergency medical at the basic level.

The Harrison Fire Department can perform these services because of Indiana Code 16-31-3-5. It states the following:

Sec. 5. The commission shall waive any rule for a person who provided emergency ambulance service, an emergency medical technician, or an ambulance operating from a location in an adjoining state by contract with an Indiana unit of government to provide emergency ambulance or medical or medical services to patients who are picked up or treated in Indiana. As added by P.L. 2-1993, SEC.14 8

This is not the only Indiana Code that has relevance to the Harrison Fire Department and its unique situation. The other particular Indiana Code deals with what those providers must meet in order to provide emergency medical services. 836 IAC 1-2-2(D) states the following:

(d) Ambulance service providers in states immediately adjacent to Indiana who will be providing ambulance service within Indiana under a contract with an Indiana local unit of government must be certified by the Indiana emergency medical service commission in accordance with 836 IAC 1 or, apply for waiver of 836 IAC 1 provisions so long as the following requirements are met:

(1) The Indiana local unit of government must:

8. Indiana Code, IC 16-31-3-5

(A) Notify the Indiana emergency medical services commission of the intent to provide emergency medical services to residents of their area of responsibility when such services will be provided by an ambulance service in an adjacent state not certified by Indiana emergency medical commission and said ambulance service is unable to comply with the provisions of 836 IAC 1 for certification.

(B) Provide a copy of a legally binding contract for services that outlines the conditions under which emergency medical services will be provided.

(C) Show proof of the insurance of public notice that describes any and all differences between the state standards in existence for the contracted provider of ambulance service and the standards adopted by the Indiana emergency medical services commission.

(D) The Indiana emergency medical services commission may issue certification under this provision for a period of one (1) year.

(2) The Indiana emergency medical services commission may revoke certification of the contracted ambulance service provider immediately upon determining that the contracted ambulance service provider is in violation of existing adjacent state rules and regulations regarding the provision of emergency medical services.

(3) Violations of Indiana patient care standards or standards existing under the contracted ambulance service providers state rules and regulations are subject to the provision and levying of fines as described

in 836 IAC 1-2-4 at this discretion of the director and will be responsibility of the Indiana local unit of government as the contracte. 9

The Harrison Fire Department is in compliance of those sections of Indiana code 836 IAC 1-2-2(d) that applies. In fact on July 16, 2007 the district manager of the state emergency management agency was at the Harrison Fire Department to perform its annual onsite inspection of all four (4) of its life squads (Appendix C).

There are other measures in place that allow the Harrison Fire Department and other agencies like us to provide emergency services across the state line. Both the state of Indiana and Ohio has interstate mutual aid provisions in their laws.

For the state of Ohio the Interstate Mutual Aid Compact can be found in the Ohio Revised Code 5502.40. Some points of interest are stated in the following:

The purpose of this compact is to provide mutual assistance between the states entering into this compact in managing any emergency or disaster that is duly declared by the governor of the effected state(s), whether arising from natural disaster, technological hazard, man-made disaster, civil emergency aspects of resources shortages, community disorders, insurgency, or enemy attack. 10

For the state of Indiana, it has the Interstate Emergency Management and Disaster Compact which can be found in the Indiana Code 10-14-6-1. Some points of interest are stated in the following:

The purpose of this compact is to provide mutual aid among the states in meeting any emergency or disaster from national security, natural, or

9. Indiana Administrative Code, 836 IAC 1-2-2

manmade situations including sabotage and subversive acts and direct attacks by bombs, shellfire, and atomic, radiological, chemical, bacteriological means, and other weapons. The prompt, full and effective utilization of the resources of the respective states, including such resources as may be available from the United States government or any other source, are essential to the safety, care and welfare of the people thereof in the event of enemy action or other emergency, and any other resources, including personnel, equipment or supplies, shall be incorporated into a plan or plans of mutual aid to be developed among the emergency management agencies or similar bodies of the states that are parties to this compact. The directors of emergency management of all party states constitute a committee to formulate plans and to take all necessary steps for the implementation of this compact. ¹¹

In an important note each governor from their respective state must declare an emergency need for mutual aid or the above statutes will not be applicable. This point came into play when in July of 2005, a multi-alarm fire at a six story plastic recycling plant required the use of fire departments from Indiana, Ohio, and Kentucky.¹² The major sticking point with that incident was the Ohio firefighters protected under Ohio worker's compensation if injured in Indiana? As eluded to earlier neither governor from the state of Indiana or Ohio declared an emergency.

Next, I will offer three (3) specific actions that the Harrison Fire Department is taking to reduce the risk of litigation against the City of Harrison for providing emergency

11. Indiana Code, IC 10-12-6-1

12. Bennett, Fire Service Law

services to the state of Indiana. First, the Harrison Fire Department is taking as many measures as it can to meet the standards of the National Fire Protection Agency (NFPA). For example, the Harrison Fire Department uses NFPA 1021, Standard for Fire Officer Professional Qualifications, to establish minimum standards for the eligibility of Fire Officer promotions. There are no fire departments within the United States that in total compliance with the standards of the NFPA; many fire departments have looked at the NFPA like they look at Occupational Safety and Health Administration (OSHA), as not having to because they're not mandated to do so by their respective state. However, that has all changed due to the tragic event that has taken place. While at a Lairdsville Fire Department (NY) training fire in 2001, one (1) trainee firefighter was killed and two (2) were seriously injured. The Training Officer that was responsible for the training exercise was convicted of criminal negligent homicide in the death of the trainee firefighter. He was sentenced to seventy-five (75) days in jail and is prohibited from working for or having contact with any fire department for five (5) years. During the court case, testimony was given that some of the firefighters on scene that day of the tragedy were unaware of the NFPA standards. ¹³

Upon conclusion of the National Institute for Occupational Safety and Health's (NIOSH) investigative report their recommendations to minimize the risk of similar occurrence fire departments are:

- *Ensure that no one plays the role of victim inside the structure during live-burn training* ¹⁴

13. Caspi, Attorney Defends Training Officer

14. NFPA 1403, Standard on live Fire Training Evolutions

- *Ensure that a certified instructor is in charge of the live burn training and that a separate safety officer is appointed and has the authority to intervene and control* ¹⁴
- *Ensure that only one training fire is lit at a time designated ignition officer and that a charged hoseline is present while igniting the fire* ¹⁴
- *Ensure that Standard Operating Procedures (SOPs) are developed and followed* ¹⁵
- *Ensure that all firefighters participating in live-fire training have achieved a minimum level of basic training* ¹⁴
- *Ensure that before conducting live-burn training, a preburn briefing session is conducted and an evacuation plan and signal are established for all participants* ^{14,15}
- *Ensure that fires used for live-burn training are not located in any designated exit paths* ¹⁴
- *Ensure that the fuels used in the live-burn training evolutions have known burning characteristics and the structure is inspected for possible environmental hazards* ¹⁴

This was a precedence setting court case for all fire departments in America. As a result, a heighten alert has been placed on training in acquired structures throughout the nation.

Secondly, as eluded to earlier in this paper, the Harrison Fire Department is contracted

14. NFPA 1403, Standard On Live Fire Training Evolutions

15. NFPA 1500, Standard On Fire Department Occupational Safety and Health Program

to provide emergency services to multiple communities within Dearborn County, Indiana. However, there are still other communities within Dearborn County and Franklin County Indiana that the Harrison Fire Department provides mutual aid too. After extensive research, I have discovered that there is no written agreement for the Harrison Fire Department to provide emergency services for mutual aid. In an effort to reduce any possible future legal matters for the Harrison Fire Department, I would suggest and have suggested to Fire Chief Hursong that written agreements be made with those Indiana communities. An ideal agreement would deal with certain issues such as: type of service provided (i.e., fire, EMS, rescue or hazmat), level of service (i.e., BLS or ALS), area of coverage (i.e., square miles), and worker compensation issues. This would in fact elevate the need for both governors from Indiana and Ohio to declare an emergency so that Ohio firefighters could be covered by workers compensation in case of injury.

I believe that predictable is preventable and if you can predict that it might happen then it will eventually happen. That is literally the sense every time the Harrison Fire Department responds into the state of Indiana. We deal with response issues every time we're dispatched because Dearborn County Communication Center has a different response policy than that of the Harrison Fire Department that has to be relayed thru the Hamilton County Communication Center. I myself have actually been dispatched to provide EMS at the scene of a working structure fire and you are the first unit on the scene. People are angry, their house is burning to the ground and they want to know why your there in a life squad. This is just one example of many issues that can be rectified with a mutual aid agreement that would avoid any possible litigation.

Third, the Harrison Fire Department has recently evaluated its emergency response policy for EMS incidents in the state of Indiana. In the past when an EMS incident occurred one (1) life squad, and one (1) engine would respond with lights and sirens activated. This emergency response policy was reevaluated last month and changed. The new policy only allows for the life squad to respond with lights and sirens. The engine must respond with the flow of traffic. The engines primary mission is to provide manpower and to assist the EMS crew. Having an engine respond with lights and sirens is taking an unnecessary calculated risk that could result in possible tragedy. Fire Department personnel and apparatus are at a greater risk more now than ever. While it seems that the national spotlight has recently focused on apparatus auto accidents in the fire service, it has especially hit close to home with last years fatal auto accident involving Ladder 2 of the Fairfield Fire Department. Also, other emergency response policies are currently under review to avoid possible litigation.

Now more than ever the fire service is every changing, some say the only thing that is constant is change. Fire departments are being asked to do more with less, resources are continually being taxed. Accidents, incidents and death are not prejudice as to where one lives or what side of the state line he or she lives on. That is why that it is imperative that state and local leaders as well as Fire Chiefs continually evaluate and reevaluate how emergency services can be quickly and more effective delivered to those in need.

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