



CHIEF'S FILE CABINET

Ronny J. Coleman

Who Do You Think You Are?

Just who do you think you are! That is an epithet that is often directed by someone who is angry to another person who is doing something that they should not be doing. Or, at least in the opinion of the angry person they are. Almost every time this phrase is uttered the person who is responding to it will come back with some sarcastic remark that only elevates the level of debate higher. However, if the question were rephrased a little more simply, “who are you”? Then the answer might be relatively easy to state without animosity.

What got me thinking about this particular phenomenon was a recent discussion on the use of authority under a very specific set of circumstances. This column for many years now has carried the title “The Authority Having Jurisdiction” – the AHJ. It is a common word that is used almost on a daily basis, yet in many ways it remains ambiguous and unfocused.

It answers the question we started with. The answer is who you are with regard to making something happen. You have got authority or you don't. As I was looking at this phrase I was struck by the fact that we can replace authority having jurisdiction with another phrase, power over place. In other words, if you have the authority to make something happen then you have to make it happen somewhere where that authority actually exists. This is not just a double speak exercise, but rather a question that has to do with how we use the word authority having jurisdiction to get our way in the way things happen.

For example, is authority exclusive? Can only one authority have jurisdiction over a place? Is one authority lower in priority when exercising the same time of action? In my experience this can get pretty complicated. It is not uncommon for example in the exercise of governmental authority for multiple entities being able to exercise different types of jurisdiction over a specific place. For instance one time there was a real dispute between fire and law enforcement over has authority over hazardous materials events. A recent donnybrook between a police officer and firefighter over traffic control resulted in serious controversy. A good example could be the layering effect of local, county, state and federal government. At any given place in the United States, there can be a minimum of four levels of government that has the right to say certain things about the way things are done in that place. Moreover, within those levels there can conflicts over authority depending upon mission and assignment

If you look up the word authority having jurisdiction on the internet, you will find that it is most often used in the context of codes and standards. But the use of authority or the ability to exert force to get your way is not limited strictly to codes. It is a function of whether or not you feel that you can exercise dominance over the decision making process.



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Hence, when the term authority having jurisdiction is used in other context it may not mean anything about codes but rather another function we are accustomed to in the fire service and that is command and control. If you go back to my original *power over place* contention, the authority having jurisdiction could then be interpreted as any organization and that organizations members having the ability to exercise control over a specific activity within the confines of a specific location.

Authority is a coercive activity. Authority implies having power that can be exercised independent of other people's power. It is a delegated power that is exercised at a very personal level

We don't see too much of this in the fire service but if you look in law enforcement it happens all the time. A person can commit a crime that is a crime against the federal government but it occurs in a local jurisdiction. If that crime violates the law at the local jurisdiction then that authority can be exercised to arrest the person. But, if a higher level of authority comes in such as the federal government and demands to take precedent, then they are coercing the locals to relinquish their own power to a higher authority. Our best example in the codes area is the difference between mini-maxi states and local control states. Withholding the ability to act is not uncommon in the world of authorities having jurisdiction.

From the perspective of a fire marshal, it is very important that you understand exactly what authority you have within your jurisdiction. The word "within" begins to define what we are looking at here. Governments have boundaries. If you are responsible for a specific area, i.e., a state, district, county, city, or township then your ability to exercise control may be limited to the geographical area defined by those boundaries.

In general the only way one gets authority is to have it given to them by a higher body. If you review the list in the last paragraph it is easy to see that there are governmental bodies at all of those levels. The flow of the authority I am referring to actually comes from the Constitution because in this country the Constitution creates powers that are reserved for the national government and all other authority flows from those areas that have been delegated to subsets of the national government, i.e. states, counties, district, towns, etc. It is sort of like one of those Russian dolls that are one doll encapsulated within another. As you open each layer or reveals another layer.

You will find the term AHJ sprinkled throughout many legal documents. It is a common phrase used in NFPA standards. It appears in multiple forms throughout fire and building code processes and its value is known to be incorporated into other forms of technical documents that require someone to adopt them before they are useful.



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This all points to the idea that as fire marshal you need to know exactly what authority you do have. You need to understand exactly where you have it and you need to know what the limitations are. Exceeding your authority creates more problems that can be created by not using your authority at all.

This discussion of authority leads to other sub categories such as the abuse of authority or failure to act when you have authority and a whole host of other manifestations of consequences. As you finish reading this column if you believe you are an AHJ - congratulations! However, if you are not really sure where your authority comes from you need to check that out. Go back and do some homework. You might be surprised to find that that you agency has not actually adopted the scope of authority you are exercising. If you are not sure that you have it, you need to confirm it. And when it comes to jurisdiction, you have to be really clear as to what authority you have the ability to exercise over what topic.

If you've got it, don't flaunt it! If you don't got it, go get it!