

April 1, 2025

Re: *Petition for Declaratory Ruling submitted by Charles DellaRocco, State Animal Control Officer at the Connecticut Department of Agriculture, dated February 12, 2025*

OBJECTION TO RECOMMENDATION TO DECLINE REQUEST FOR DECLARATORY RULING

I received Academy Administrator Karen Boisvert's "Recommendation to Deline Request for Declaratory Ruling" on April 2, 2025 by certified mail. Ms. Boisvert's recommendation to decline my request for declaratory ruling has a few faults. The Office of the Attorney General (AOG) did in deed previously address the applicability of POSTC training and certification requirements. See Opinion, Conn Atty. Gen 93-028 (Dec. 28, 1993). In this decision the Attorney General reviewed multiple officer classifications and found that some persons who performed police functions were exempt from POSTC certification because their governing statutes imposed independent training requirements. Specifically, the Attorney General cited:

"Municipal animal control officers appointed pursuant to Conn. Gen. Stat. 22-331 (1993) are in somewhat different position, however. The legislative bodies of the respective municipalities my waive any requirement as to the education and training applicable to such warden and tier assistants which might otherwise apply to them and to other members of the police department. See Conn. Gen. Stat. 22-331(a); D'AMICO v. Willis, 13 Conn. App. 124, 127-28, 534 A.2d `151 (1987). To the extent that a local warden's municipality has waived such education and training requirements, that warden is not subject to the authority of the MPTC (POSTC)."

Subsequently, Public Act (PA) 95-108, addressed this exact concern. In addition to changing the name from MPTC to POSTC and defining the phrase "police functions", PA 95-108 amended Conn. Gen. Stat. 7-294d(f) to exempt explicitly from POSTC training and certification municipal animal control officers under Conn. Gen. Stat. 22-331 as long as the "legislative bodies of the respective municipalities" waived the requirements.

Attorney General Opinion 2013-006 did not make it explicit that the threshold question is whether a specific statute imposes its own training requirement like Ms. Boisvert would like everyone to believe. Conn. Atty. Gen. 2013-006 was asked to reexamine "...that part of the 1993 Opinion that addressed whether Constables for Fish and Game Protection (Fish & Game Constables) are subject to the training and certification requirements of the Police Officers Standards and Training Coucil (POSTC), and ask specifically whether Fish & Game Constables my carry firearms without POSTC training and certification, and if so, what training must they complete." Attorney General Jepsen concluded that, "...in light of strong evidence of legislative acquiescence to and reliance on the 1993 Opinion, we should not reconsider, and it remains our opinion that Fish & Game Constables under Conn. Gen. Stat 26-6a must receive POSTC training and certification."

Atty. Gen. Op 2013-006 did make mention to Ms. Boisvert's position but clearly stated that it is not something that should be looked at. Attorney Jepsen stated that "specific language usually should prevail over general language. It is for this reason that he writes this:

"Several factors weigh strongly against reevaluating the 1993 Opinion's conclusions as to Fish & Game Constables. First, in the twenty years since its issuance, there is evidence that the legislature has not only acquiesced in, but relied on the conclusions of the 1993 Opinion. The statutes relating to POSTC training have been addressed and amended numerous times since 1993. Of particular significance is Public Act 95-108, which in addition to changing the name to POSTC and defining the phrase "police functions" amended 7-294d(f) to exempt explicitly from POSTC training and certification sheriffs and deputy sheriffs trained pursuant to 6-32b, animal control officers under 22-331, and fire police appointed under 7-313a."

Attorney General Jepsen even mentioned that POSTC training and certification requirements did not extend to "animal control officers (to the extent waived by relevant municipality) under Conn. Gen. Stat. 22-331."

There is little question that State Animal Control Officers are persons performing police functions within the meaning of 7-294d. State Animal Control Officers are charged with enforcement, including the power to arrest, of state laws relating to domesticated animals that are in Chapters 435, 436 and 436a of the Connecticut General Statutes. It is extremely important to look at all aspects as it pertains to all animal control officers within the state. The first being that animal control officers are "police officers" and their units are "law enforcement" units as defined by CGS 7-294a. Office of Legislative Research (OLR) just released, February 14, 2025, their legal opinion identified as 2025-R-0044 (which is attached) answering this specific question.

For these reasons and many others, I request that Ms. Boisvert's "Recommendation to Decline Request for Declaratory Ruling" be over ruled.



Charles DellaRocco

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