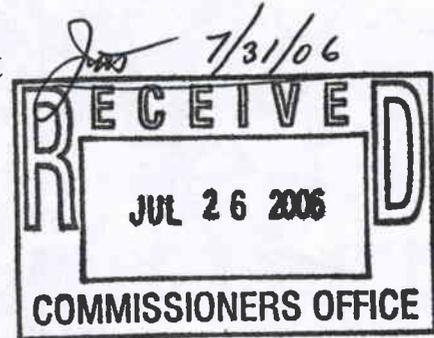


RICHARD BLUMENTHAL
ATTORNEY GENERAL



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P.O. Box 120
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Office of The Attorney General
State of Connecticut



July 20, 2006

Honorable James M. Thomas
Department of Emergency Management and Homeland Security
25 Sigourney Street
Hartford, Connecticut 06106

Dear Commissioner Thomas:

You have requested our advice on whether volunteers under the Community Emergency Response Team (CERT) are protected under Title 28 of the Connecticut General Statutes during the course of their training for, and participation in, civil preparedness activities. It is our opinion that they are protected under Title 28.

You have advised us that CERT is a program which is part of the Citizen Corps initiative of the United States Department of Homeland Security (DHS). The Citizen Corps was established pursuant to Presidential Executive Order 13254 of January 29, 2002 which established the USA Freedom Corps. 67 FR 4869, February 1, 2002.¹ You further advised us that the DHS provides funding through the States to establish local Citizen Corps Councils. The local Citizen Corps Councils recruit, train and lightly equip CERT members to perform basic emergency response activities such as first aid, shutting off power mains, and light search and rescue, to assist other residents and local responders in times of emergency. CERT members work under the direction of a designated local official.

Conn. Gen. Stat. § 28-7 (f) provides as follows:

In the event of a serious disaster or of a sudden emergency, when such action is deemed necessary for the protection of health and safety of the people, and upon request of the local chief executive

¹ Section 3(b) (viii) of Presidential Executive Order 13254 was amended by Presidential Executive Order 13286 of February 28, 2003 to change "Director of Federal Emergency Management Agency" to "Secretary of Homeland Security." 68 FR 10619, March 5, 2003.

authority, the Governor or the commissioner [of the Department of Emergency Management and Homeland Security], without regard to the provisions of section 22a-148, may authorize the temporary use of such civil preparedness forces², including civil preparedness auxiliary police and firemen, as he deems necessary. Personnel of such civil preparedness forces shall be so employed only with their consent. The provisions of section 28-14 shall apply to personnel so employed.

Conn. Gen. Stat. § 28-7 (h) states as follows:

Whenever, in the judgment of a local civil preparedness director, with prior approval of the commissioner, it is deemed essential to authorize the temporary assignment, with their consent, of any members of civil preparedness forces who are not paid employees of the state or any political subdivision thereof, for a temporary civil preparedness mission, the provision of section 28-14 shall apply. A complete written record of the

²According to Conn. Gen. Stat. § 28-1(5): "Civil preparedness forces" means any organized personnel engaged in carrying out civil preparedness functions in accordance with the provisions of this chapter or any regulation or order adopted pursuant to this chapter. All the police and fire forces of the state or any political subdivision of the state, or any part of any political subdivision, including all the auxiliaries of these forces and emergency medical service personnel licensed or certified pursuant to section 19a-179, shall be construed to be a part of the civil preparedness forces. The Connecticut Disaster Medical Assistance Team and the Medical Reserve Corps, under the auspices of the Department of Public Health, the Connecticut Urban Search and Rescue Team, under the auspices of the Department of Emergency Management and Homeland Security, and the Connecticut behavioral health regional crisis response teams, under the auspices of the Department of Mental Health and Addiction Services and the Department of Children and Families, and their members, shall be construed to be a part of the civil preparedness forces while engaging in authorized civil preparedness duty or while assisting or engaging in authorized training for the purpose of eligibility for immunity from liability as provided in section 28-13 and for death, disability and injury benefits as provided in section 28-14. Any member of the civil preparedness forces who is called upon either by civil preparedness personnel or state or municipal police personnel to assist in any emergency shall be deemed to be engaging in civil preparedness duty while assisting in such emergency or while engaging in training under the auspices of the Department of Emergency Management and Homeland Security, the Department of Public Safety, the Division of State Police within the Department of Public Safety or a municipal police department, for the purpose of eligibility for death, disability and injury benefits as provided in section 28-14.

conditions and dates of such assignment shall be maintained by the local director concerned and such record shall be available for examination by the commissioner and the Attorney General. The commissioner shall establish the necessary procedures to administer this section.

Conn. Gen. Stat. § 28-14 (a) provides compensation for death, disability or injury incurred during training or participation in civil preparedness duties. It states in part as follows:

All members of any auxiliary police, auxiliary fire or other civil preparedness force shall be compensated for death, disability or injury incurred while in training for or on civil preparedness duty under the provisions of this chapter as follows: (1) Employees of the state, municipalities or political subdivisions of the state who are members of civil preparedness forces and for whom such compensation is provided by any provision of existing law shall be construed to be acting within the scope of their employment while training for or engaged in civil preparedness duties and shall be compensated in accordance with the provisions of chapter 568, section 5-142 or any special act concerning compensation to certain employees . . . (2) any persons who are engaged in regular employment apart from and separate from their duties as a member of civil preparedness forces and for whom such compensation is not so provided shall, while in training for or engaged in civil preparedness duty under the provisions of this chapter, be construed to be employees of the state for the purposes of chapter 568 and section 5-142 and shall be compensated by the state in accordance with the provisions of said chapter 568 and section 5-142.

It is clear from Conn. Gen. Stat. § 28-14 that CERT members who have been recruited by the Local Citizen Corps, who have satisfied the requirements of Conn. Gen. Stat. § 28-12, and who are not employees of the state, municipalities

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or political subdivisions of the state, are construed to be state employees, and are afforded the protection provided for under chapter 568 and 5-142, while participating in training for or engaged in civil preparedness duties.

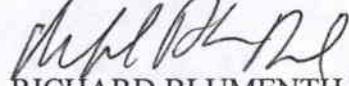
Moreover, CERT members are immune from liability for actions taken in the course of their civil preparedness duties, except for wilful misconduct. Conn. Gen. Stat. § 28-13 (a) states as follows:

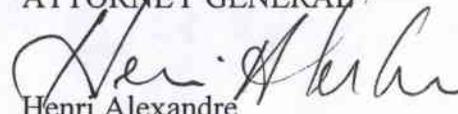
Neither the state nor any political subdivision of the state nor, except in cases of wilful misconduct, the agents or representatives of the state or any political subdivision thereof nor any member of the civil preparedness forces of the state nor any person authorized by such civil preparedness forces or by any member of such civil preparedness forces complying with or attempting to comply with this chapter or any order or regulation promulgated pursuant to the provisions of this chapter, or pursuant to any ordinance relating to blackout or other precautionary measures enacted by any political subdivision of the state nor any person employed by or authorized to assist any agency of the federal government in the prevention or mitigation of any major disaster or emergency, shall be liable for the death of or injury to persons or for damage to property as a result of any such activity. The Attorney General shall appear for and defend the state, any political subdivision of the state and the agents or representatives of the state or any political subdivision thereof or any member of the civil preparedness forces of the state or any other person exempted from liability for his acts under this section in any civil action brought for the death of or injury to persons or for damage to property as a result of any civil preparedness activity.

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It is our opinion that the foregoing statutory provisions make it clear that CERT members are protected under Title 28 of the General Statutes during the course of their training for, and participation in, civil preparedness activities.

Very truly yours,


RICHARD BLUMENTHAL
ATTORNEY GENERAL


Henri Alexandre
Assistant Attorney General