

February 29, 2016

Joseph C. Heap II  
Chairman, State Marshal Advisory Board  
34 School Street  
New London, CT 06320

**Re: Hartford Parking Authority Enforcement of Parking on State Marshal Vehicles**

Dear State Marshal Heap:

You had requested that I draft a letter of opinion on behalf of the State Marshal Advisory Board with respect to Hartford Parking Authority's continued ticketing of State Marshal vehicles while on official duty. Specifically, you had asked whether Connecticut law was clear that State Marshals on official duty were exempt from parking regulations promulgated by the City of Hartford, and whether the Hartford Parking Authority had the power to ticket State Marshal vehicles.

Please find attached a memorandum of law addressing your questions.

Should you have any further questions or if I may be of any assistance to the Board in the future, please do not hesitate to contact me.

Very truly yours,

Edward S. Noble III

TO: STATE MARSHAL HEAP, STATE MARSHAL ADVISORY BOARD  
FROM: EDWARD S. NOBLE III  
RE: HARTFORD PARKING AUTHORITY DISPUTE  
DATE: FEBRUARY 29, 2016

## **MEMORANDUM OF OPINION**

### **I. ISSUES PRESENTED**

1. Whether State Marshals are “officers” within the meaning of Connecticut General Statutes § 14-290.
2. Whether State Marshals are exempt from parking tickets in Hartford.

### **II. SHORT ANSWER**

State Marshals are officers within the meaning of § 14-290.

State Marshals are almost certainly entirely immune from any criminal liability for acts arising under the motor vehicle laws of both the State and municipal authority.

### **III. FACTUAL BACKGROUND**

State Marshals have reported having received tickets on their official vehicles over the past few months by the Hartford Parking Authority. The majority of State Marshals have displayed the “State Marshal” placard on their vehicle at the time they have been ticketed.

When these issues were raised with the Hartford Parking Authority, the HPA claimed that State Marshals are not exempt from parking regulations.

### **IV. DISCUSSION**

#### ***A. STATUTORY ANALYSIS AND LEGISLATIVE HISTORY***

Connecticut General Statutes § 14-290(a) reads:

Exemptions from motor vehicle laws.

(a) Motor vehicles in the custody and use of officers in the performance of their duties shall be exempt from any traffic regulations of any town, city or borough, and from the provisions of this chapter and of chapter 246, so far as such exemption is necessary for the effective enforcement of any of the provisions of the statutes.

The term “officer” is defined in § 14-1 as:

(62) “Officer” includes any constable, state marshal, inspector of motor vehicles, state policeman or other official authorized to make arrests or to serve process, provided the officer is in uniform or displays the officer’s badge of office in a conspicuous place when making an arrest;

As a result, the statutes are very clear that the term “officer” includes State Marshals.

The legislative history of § 14-1(63) further support that State Marshals are officers within the meaning of the General Statutes. In 1971, § 14-1 was amended to include “sheriffs and deputy sheriffs”. In 2000, with the reorganization of the sheriff system in Connecticut, the General Assembly passed Public Act 00-99, which replaced all references to “sheriff and deputy sheriff” with “state marshal”. In addition, the term “peace officer” was redefined as:

(9) “Peace officer” means a municipal or state police officer, ~~sheriff, deputy sheriff~~ or chief inspector or inspector in the Division of Criminal Justice or state marshal while exercising authority granted under any provision of the general statutes or judicial marshal in the performance of the duties of a judicial marshal.

Simply stated, State Marshals are peace officers and officers within the meaning of § 14-290(a).

Section 14-290(a) specifically refers to chapter 246, which includes §§ 14-212 through 14-296bb. Section 14-251 addresses the parking of vehicles and reads:

Sec. 14-251. Parking vehicles.

No vehicle shall be permitted to remain stationary within ten feet of any fire hydrant, or upon the traveled portion of any highway except upon the right-hand side of such highway in the direction in which such vehicle is headed; and, if such

highway is curbed, such vehicle shall be so placed that its right-hand wheels, when stationary, shall, when safety will permit, be within a distance of twelve inches from the curb, except if a bikeway, as defined in section 13a-153f, as amended by this act, or such bikeway's buffer area, as described in the federal Manual on Uniform Traffic Control Devices, is in place between the parking lane and the curb, such vehicle shall be so placed that its right-hand wheels, when stationary, shall, when safety will permit, be within a distance of twelve inches from the edge of such bikeway or buffer area. No vehicle shall be permitted to remain parked within twenty-five feet of an intersection or a marked crosswalk at such intersection, or within twenty-five feet of a stop sign caused to be erected by the traffic authority in accordance with the provisions of section 14-301. No vehicle shall be permitted to remain stationary upon the traveled portion of any highway at any curve or turn or at the top of any grade where a clear view of such vehicle may not be had from a distance of at least one hundred and fifty feet in either direction. The Commissioner of Transportation may post signs upon any highway at any place where the keeping of a vehicle stationary is dangerous to traffic, and the keeping of any vehicle stationary contrary to the directions of such signs shall be a violation of this section. No vehicle shall be permitted to remain stationary upon the traveled portion of any highway within fifty feet of the point where another vehicle, which had previously stopped, continues to remain stationary on the opposite side of the traveled portion of the same highway. No vehicle shall be permitted to remain stationary within the limits of a public highway in such a manner as to constitute a traffic hazard or obstruct the free movement of traffic thereon, provided a vehicle which has become disabled to such an extent that it is impossible or impracticable to remove it may be permitted to so remain for a reasonable time for the purpose of making repairs thereto or of obtaining sufficient assistance to remove it. Nothing in this section shall be construed to apply to emergency vehicles and to maintenance vehicles displaying flashing lights or to prohibit a vehicle from stopping, or being held stationary by any officer, in an emergency to avoid accident or to give a right-of-way to any vehicle or pedestrian as provided in this chapter, or from stopping on any highway within the limits of an incorporated city, town or borough where the parking of vehicles is regulated by local ordinances. Violation of any provision of this section shall be an infraction.

Clearly, therefore, the parking regulations of both the State and the City are to give way to State Marshals' official duties.

#### *B. CASE LAW*

The only remaining question is the meaning of the language in § 14-290(a) of "so far as such exemption is necessary for the effective enforcement of any of the provisions

of the statutes.” The few cases discussing § 14-290 have all held that the state actors’ failure to comply with traffic laws meant that the official actors were immune from criminal liability, though such actions could still lead to liability for negligence. For example, in *Allison v. Manetta*, 284 Conn. 389 (Conn. 2007), the Court held that “although §§ 14-251 and 14-290 exempt certain operators of equipment from prosecution for a violation of § 14-251, such exemption does not demonstrate that Zucco’s actions in parking the truck on the highway were not negligent.” Further, our Supreme Court intended such a declaration to guide the lower courts in reaching their decisions. It is also instructive that our Supreme Court simply held that it was a maxim that § 14-290(a) exempts the drivers of the vehicles at issue from criminal liability under the motor vehicle laws without *any* discussion of any exceptions.

Other Courts have engaged in the exact same analysis as our Supreme Court. *See, e.g., Locoh v. City of New Haven*, 2004 Conn. Super. LEXIS 3218 (Conn. Super. Ct. Nov. 1, 2004) (maintenance vehicles exempt from traffic laws); *State v. Pickles*, 28 Conn. App. 283 (Conn. App. Ct. 1992) (maintenance vehicles exempt from traffic laws even when not compliance with DOT regulations). There are no cases that provide for any sort of carve-out for municipal traffic laws as the HPA has demanded here. As a result, it appears that State Marshals are immune from HPA’s tickets, though they could still be liable for negligence under some circumstances.

## V. CONCLUSION

There is simply no question that State Marshals are “officers” within the meaning of § 14-290, and therefore exempt from the motor vehicle laws of both the State and City.

There is a small question of whether the language of “so far as such exemption is necessary” provides any power for the City to impose criminal liability on State Marshals. The few cases that have examined § 14-290 have all concluded that the exempt actors were immune from *any* criminal liability, though that such immunity did not prevent liability for negligence for damage inflicted. It is extremely likely that a Court would follow such reasoning should the HPA’s ticketing of State Marshals be presented to the Court.

FEBRUARY 29, 2016

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Edward S. Noble III