



POLICE AT ROAD CONSTRUCTION SITES

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POLICE SERVICES AT HIGHWAY WORK SITES

- The law does not require police at highway construction sites.
- The Department of Transportation determines whether police must be stationed at state road construction projects; towns make the determination for town roads.
- The decision to assign police officers depends on factors such as road conditions and traffic volume.

ISSUE

Does state law require police to be present at highway construction sites?

SUMMARY

The law does not require police to be present at highway construction sites.

The only statute that references police services at highway construction sites allows, but does not require, the Department of Emergency Services and Public Protection (DESPP) commissioner to assign state police officers to such sites and specifies how the officers must be compensated.

The state Department of Transportation (DOT) says that by virtue of its jurisdiction over the state highway system, it is

authorized to determine whether uniformed police officers must be present at a highway construction site. It bases its determination on safety hazards, considering road characteristics and traffic patterns, among other things, and may determine that the use of civilian flaggers is appropriate. Flaggers must be trained and certified (see DOT-approved programs [here](#)).

Towns make their own determination as to whether uniformed police or civilian flaggers must staff construction sites on town roads. We reviewed a very limited sample of town ordinances, and, generally, they leave the decision to assign flaggers or police to an official, most often the police chief.

This report summarizes the law on State Police, the DOT's position, and ordinances from 10 randomly selected towns.

STATE POLICE

[CGS § 5-246](#) allows, but does not require, the DESPP commissioner to authorize state police officers to provide police services for private contractors at highway construction sites. It does not state what criteria the commissioner must consider when making such an authorization but instead specifies how an officer providing such services must be compensated. It requires the time the officer spends providing services for the private contractor to be in addition to the officer's regular workweek and excluded from the calculations used to generally limit an officer's average workweek. The state must pay the officer at a time-and-a-half rate for the service, but the private contractor must reimburse DESPP for the officer's pay and other costs related to providing the service at a rate the commissioner determines. In addition, the officer's service for the private contractor is not counted toward the officer's state pension.

DOT

According to DOT:

Under Connecticut law, it is the commissioner of transportation who has been delegated jurisdiction over the state highway system with all the powers and duties prescribed in Title 13A and 13B of the Connecticut General Statutes and as otherwise provided by law. Pursuant to this broad grant of authority, the commissioner has adopted policies and procedures regulating work activities within the right-of-way of state highways, including use of traffic control personnel. It is the commissioner, or his designee, who is empowered under the General Statutes of Connecticut to determine whether or not a uniformed police officer must be used at a work site on a state highway, taking into consideration the particular characteristics of the roadway and the traffic in the area (see attached letter, dated September 8, 2000, from DOT's Bureau of Engineering and Highway Operations to Seymour police chief).

Some of the factors DOT considers when deciding the appropriate level of protection at highway construction sites are traffic volume, location and type of work, and whether the work is being performed at night or during the day.

MUNICIPAL POLICE

Bridgeport

Before beginning road work, a contractor must obtain from the police department a (1) "certificate of preservation of public safety" showing that arrangements have been made to have police on duty at the site or (2) certificate indicating that no police protection is necessary. The police chief has sole discretion to set the number of police officers required. He or she must maintain a list of officers willing to work at road construction sites when not on regular police duty and assign them to the site on a rotation basis ([Bridgeport Ord. § 12.12.080](#)).

Bristol

A Bristol ordinance requires uniformed police officers or flaggers at road construction sites when the police chief deems the sites hazardous. If the police department is unable to provide an officer, the permittee or company performing the work must provide a flagger. The police chief must designate streets that, because of traffic volume or public safety concerns, require police to divert and control traffic.

In any case and on any street, the police chief may authorize the temporary use of flaggers when:

1. the work is in an isolated area;
2. traffic is light or moderate;
3. work will be completed with minimum disruption, generally within three hours;
4. work will be conducted on non-peripheral roadways during non-peak traffic hours; or
5. work will be completed with minimal disruption within 30 minutes, and a flagger is on site ([Bristol Ord. § 21-10](#)).

Cromwell

Cromwell's ordinance authorizes the police chief to prescribe the level of protection he or she deems necessary to allow for the safe passage of vehicles and pedestrian traffic. This includes requiring police officers or flaggers ([Cromwell Ord. § 125-9](#)).

Darien

Anyone doing road construction work must obtain a permit from the public works director, who may require that the applicant, as a condition of obtaining the permit, arrange for and pay for any traffic control services the police chief deems appropriate.

Ordinarily, any such services must be provided by police officers. But if the police department cannot provide an officer within a reasonable time, qualified flaggers may be employed until police coverage is available ([Darien Ord. § 66-1](#)).

Enfield

An Enfield ordinance requires a traffic director to be assigned to a road construction site if the town manager or his or her designated agent determines that the location and extent of the work will adversely affect traffic control and public safety. They determine if the traffic director must be a uniformed police officer or a flagger ([Enfield Ord. § 74-68](#)).

Manchester

Under Manchester's ordinance, the contractor on a road construction project must provide adequate protection if the work may create a hazard or inconvenience to vehicular or pedestrian traffic or cause a public safety hazard. The police chief determines how much protection is adequate.

If the work is not trivial, will take place during normal business hours of 7 a.m. to 6 p.m. on Monday through Saturday, affects one or more of two principal arterial and 16 minor arterial streets specifically named in the ordinance, and the chief or his or her designee determines that public safety requires the use of a flagger, the chief must first require that a local police officer serve as the flagger. For any other streets not specifically named, the contractor may decide whether to use a civilian flagger or police officer.

If no police officer is available for assignment to a site, the chief may allow use of a civilian equipped with a high visibility traffic control vest and flag "whose sole function shall be to control vehicular and pedestrian traffic" during the work hours or when a traffic or public safety hazard exists. At sites where municipal agencies or their agents or contractors are performing work, regardless of their location, the ordinance allows the chief to approve properly equipped and trained municipal employees or agents as flaggers, instead of police officers ([Manchester Ord. §§ 279-14 - 279-16](#)).

Naugatuck

A Naugatuck ordinance requires the police chief to designate a specific zone in the borough where police protection is mandatory at any road construction site that involves:

1. construction or excavation permits,
2. power or telephone line installation or repair,
3. cable television installation or repair, or
4. other excavation or obstruction.

For areas outside the designated zone, the police chief and the superintendent of streets, or their respective designees, must make the decision to provide police protection on a case-by-case basis ([Naugatuck Ord. §16-13](#)).

New Britain

Under a New Britain ordinance, when road work causes or may cause a public safety hazard, the person responsible for the work must provide the level of protection the police chief requires.

If the police chief determines that public safety requires the use of flaggers, police officers must be used as flaggers. If none are available, civilian flaggers may be used solely to control vehicular and pedestrian traffic.

If flaggers are not available and a hazard to pedestrian and vehicular traffic exists, a police officer or Department of Public Works designee must order the site closed and made safe until adequate police protection or a flagger is provided ([New Britain Ord. § 21-33](#)).

Newington

Under the town ordinance addressing traffic control at road construction sites, the company or contractor performing the work must get a permit from the town manager. The permittee is responsible for vehicular and pedestrian traffic control and must "take such measures to provide for effective traffic control as the town manager or the chief of police shall order including the provision of flagmen or police traffic officers. . . ." ([Newington Ord. § 367-3](#)).

North Haven

The police chief must assign such police personnel to highway work sites as he or she deems necessary or appropriate to assure the safety of people or vehicles using the highway. If police officers are not available, the Building Department must require the party performing the work to provide traffic guards or flaggers deemed necessary ([North Haven Ord. § 162-1](#)).

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