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EDWARD GENESKY *v.* TOWN OF EAST LYME
(SC 17152)

Sullivan, C. J., and Borden, Norcott, Palmer and Zarella, Js.

Argued October 18, 2004—officially released August 30, 2005

Nathan Julian Shafner, for the appellant (plaintiff).

Michael P. Carey, with whom, on the brief, was *Susan M. Phillips*, for the appellee (defendant).

Opinion

ZARELLA, J. The dispositive issue in this appeal is whether the plaintiff, Edward Genesky, is a regular member of a paid municipal police department for purposes of receiving benefits under the Heart and Hypertension Act, General Statutes § 7-433c.¹ The plaintiff, a constable employed by the defendant, the town of East Lyme (town), appeals from the decision of the compensation review board (board), which affirmed the decision of the workers' compensation commissioner for the eighth district² (commissioner) dismissing his claim for benefits under § 7-433c on the ground that he was

not a regular member of a paid municipal police department. The plaintiff claims that the board improperly affirmed the commissioner's decision because: (1) the town has a paid municipal police department of which he is a part; (2) the state's interest in providing heart and hypertension benefits to municipal law enforcement officers preempts the town's interest in denying such benefits; and (3) the town concedes that members of its police force are entitled to benefits under § 7-433c. We reject the plaintiff's claim and, accordingly, affirm the decision of the board.

The following relevant facts, as found by the commissioner, are set forth in his decision of December 5, 2002. In 1989, the town hired the plaintiff as a full-time police officer. Thereafter, the plaintiff claimed that he had injured his knee in the course of his employment on January 21, 1992. On that date, Joseph Zeppieri, an orthopedic surgeon, treated the plaintiff for his injury, but counseled against going forward with surgery because of the plaintiff's elevated blood pressure.

Zeppieri referred the plaintiff to another physician, George Burton, who met with the plaintiff on January 28, 1992, and diagnosed him with hypertension.³ The plaintiff's blood pressure readings continued to be elevated between January 28, 1992, and November 20, 1997. Burton prescribed medication to treat the condition. The plaintiff also received treatment for hypertension from two other physicians, but failed to file a timely claim for hypertension benefits with the commissioner or his employer.⁴

In September, 1999, the plaintiff experienced what he initially believed were back spasms. Ultimately, it was determined that the spasms were caused by a myocardial infarction. The plaintiff filed a claim under § 7-433c for heart and hypertension benefits related to the myocardial infarction, with a claimed injury date of October 8, 1999. The commissioner determined, however, that the plaintiff's hypertension was a factor in the development of his coronary artery disease. He therefore found that, because the plaintiff had been receiving continuous treatment for his hypertension and heart condition since January 21, 1992, the October 8, 1999 injury was part of one continuous incident beginning in January, 1992.

The commissioner also found that the plaintiff was working as a constable for the town on the date of his alleged injuries in 1992 and 1999, and that the town did not have a municipal police department. As a result, the commissioner dismissed the plaintiff's claim because it was untimely and because the plaintiff was not a regular member of a paid municipal police department organized pursuant to General Statutes § 7-274⁵ and *Zimmer v. Essex*, 38 Conn. Sup. 419, 421, 449 A.2d 1053 (1982).⁶ The plaintiff thereafter appealed to the board.

In reviewing the plaintiff's claim, the board first addressed the threshold issue of whether the plaintiff fell within the class of employees to which § 7-433c benefits apply, namely, "a regular member of a paid municipal police department" General Statutes § 7-433c (a). Following its examination of the commissioner's findings, the board noted that the town had established a constabulary and that it had contracted with the state department of public safety to participate in the resident state trooper program.⁷ The board thus concluded that the plaintiff was a constable. The board further noted that the facts of the present case were analogous to the facts of *Zimmer v. Essex*, supra, 38 Conn. Sup. 419–20, in which the Superior Court determined that a municipal police force not organized in conformity with the provisions of § 7-274 is a police force to which § 7-433c does not apply. See *id.*, 421. The board then observed that, according to testimony presented at formal hearings on the matter, law enforcement operations in the town differed from those of a municipal police force organized under § 7-274 because the town did not have a lockup, the town's first selectman served as the chief of police, an East Lyme police officer's powers of arrest were limited and the plaintiff's duties as a constable differed from those of "a regular member of a paid municipal police force." (Internal quotation marks omitted.) The board added that § 7-433c has been characterized as "bonus" legislation and must be strictly construed. (Internal quotation marks omitted.) The board concluded that the plaintiff was not a member of the class of persons to which § 7-433c applies and affirmed the commissioner's decision on that ground alone, finding it unnecessary to reach the issue of whether the plaintiff's claim was time barred.⁸ This appeal followed.

We begin by setting forth the standard of review applicable to workers' compensation appeals.⁹ "It is well established that [a]lthough not dispositive, we accord great weight to the construction given to the workers' compensation statutes by the commissioner and [the] board. . . . A state agency is not entitled, however, to special deference when its determination of a question of law has not previously been subject to judicial scrutiny. . . . Whe[n] . . . [a workers' compensation] appeal involves an issue of statutory construction that has not yet been subjected to judicial scrutiny, this court has plenary power to review the administrative decision." (Internal quotation marks omitted.) *Bergeson v. New London*, 269 Conn. 763, 769, 850 A.2d 184 (2004). The present appeal raises an issue of statutory construction that is of first impression for this court. Our review of the board's administrative decision is therefore plenary.

The plaintiff claims that, although he was employed as a full-time constable by the town at the time of his

injury, he is entitled to heart and hypertension benefits under § 7-433c because he was “a regular member of a paid municipal police department” General Statutes § 7-433c. The town responds that the plaintiff does not qualify for § 7-433c benefits because there is a difference between a paid municipal police department and a constabulary, and the town has chosen to ensure public safety by establishing a constabulary. We agree with the town.

The plaintiff’s claim that his status as a constable does not preclude him from being considered a regular member of a paid municipal police department under § 7-433c requires us to examine, first, whether the statutory provisions distinguish between a constable and “a regular member of a paid municipal police department,” and, second, whether the town has a “paid municipal police department” under the statutory scheme. General Statutes § 7-433c. We consider each of these questions in turn.

I

The gravamen of the plaintiff’s complaint is that, despite his status as a constable, he is a regular member of a paid municipal police department. We first consider whether there is a difference between a constable and a regular member of a paid municipal police department within the meaning of the relevant statutory provisions. We conclude that there is.

“The process of statutory interpretation involves a reasoned search for the intention of the legislature. . . . In other words, we seek to determine, in a reasoned manner, the meaning of the statutory language as applied to the facts of [the] case” (Internal quotation marks omitted.) *Wasko v. Manella*, 269 Conn. 527, 534–35, 849 A.2d 777 (2004). When construing a statute, we first look to its text, as directed by General Statutes § 1-2z, which provides: “The meaning of a statute shall, in the first instance, be ascertained from the text of the statute itself and its relationship to other statutes. If, after examining such text and considering such relationship, the meaning of such text is plain and unambiguous and does not yield absurd or unworkable results, extratextual evidence of the meaning of the statute shall not be considered.”¹⁰ In the present case, we conclude, following an examination of the language of the statute and its relationship to other statutes, that a constable is not “a regular member of a paid municipal police department,” as that term is used in General Statutes § 7-433c.

General Statutes § 7-433c (a) provides in relevant part that heart and hypertension benefits shall be available to “a regular member of a paid municipal police department who successfully passed a physical examination on entry into such service, which examination failed to reveal any evidence of hypertension or heart disease,

[and who] suffers either off duty or on duty any condition or impairment of health caused by hypertension or heart disease resulting in his death or his temporary or permanent, total or partial disability”

Section 7-433c contains no functional definition of the term “paid municipal police department.” Moreover, there is no provision in the statutory scheme that contains such a definition. We therefore turn for guidance, as directed by § 1-2z, to related statutes that distinguish between police departments and constabularies to determine whether a constable is “a regular member of a paid municipal police department” General Statutes § 7-433c.

It is clear from a review of the relevant statutory provisions that local law enforcement arrangements can take many forms and that a police department is not a constabulary. General Statutes § 7-294a employs the generic term “ ‘law enforcement unit’ ” to describe “any agency, organ or department of this state or a subdivision or municipality thereof, whose primary functions include the enforcement of criminal or traffic laws, the preservation of public order, the protection of life and property, or the prevention, detection or investigation of crime” The statute then distinguishes between constables and members of a police department by defining the generic term “ ‘police officer’ ” as “a sworn member of an organized local police department, an appointed constable who performs criminal law enforcement duties, a special policeman appointed under section 29-18, 29-18a or 29-19 or any member of a law enforcement unit who performs police duties”¹¹ General Statutes § 7-294a.

General Statutes § 7-277a further differentiates between municipal police departments and constabularies in the context of police assistance agreements. Subsections (a) and (b) of that statute describe the rules governing cooperation between the “police forces” of the requesting and responding municipalities. The statute specifically provides that, after the chief executive officer of a town receives a request for assistance from his counterpart in another town, “the chief executive officer, or chief of police or board of police commissioners or other duly constituted authority” may make available for duty “such part of the police forces under his control as he deems consistent with the safety and well-being of his municipality. . . .” General Statutes § 7-277a (a). Subsection (c) of the statute separately provides: “The chief executive officer of any town . . . which provides police protection solely by a constabulary force may enter into an agreement with one or more municipalities to furnish or receive police assistance” General Statutes § 7-277a (c). The statute thus draws a sharp and explicit distinction between a “police force” and a “constabulary force” by granting primary authority, in towns with a police department,

to the chief of police¹² or the board of police commissioners to make police officers available for the purpose of assisting another municipality,¹³ while granting similar authority, in towns with a constabulary, to the chief executive officer of the municipality.

Numerous other statutes similarly distinguish between police officers who are members of a local police department and constables. General Statutes § 1-24 (13) (oaths may be administered by “any sworn member of any local police department . . . in all affidavits, statements, depositions, complaints or reports made to or by any member of any local police department . . . or any constable who is under the supervision of [the] commissioner [of public safety]”); General Statutes § 5-259 (a) (comptroller “shall arrange and procure a group hospitalization and medical and surgical insurance plan or plans for . . . [6] the surviving spouse, and any dependent children until they reach the age of eighteen, of . . . a member of an organized local police department . . . or a constable who performs criminal law enforcement duties who dies . . . as the result of injuries received while acting within the scope of such officer’s . . . or constable’s employment and not as the result of illness or natural causes”); General Statutes § 9-230 (“[t]he registrars of voters may request the head of the police department of the municipality, or, if none, a constable serving such municipality, to provide police protection at any polling place of any regular or special state or municipal election where they may anticipate disorder”); General Statutes § 14-152 (“each municipal police department and each constable of any town” shall report theft or recovery of stolen motor vehicle to commissioner of motor vehicles and National Automobile Theft Bureau); General Statutes § 15-76 (a) (“[t]he commissioner [of transportation], any employee of the department [of transportation], any officer attached to an organized police department, any state police officer or any constable, within his or her precinct” may take abandoned aircraft into custody for storage in suitable place); General Statutes § 29-7m (b) (“[t]he police department, resident state trooper or constable who performs law enforcement duties for each town shall monitor, record and classify all crimes committed within such town” motivated by bigotry or bias); General Statutes § 53a-3 (9) (“[p]eace officer means a member of the Division of State Police within the Department of Public Safety or an organized local police department . . . [or] a constable who performs criminal law enforcement duties” [internal quotation marks omitted]); General Statutes § 53a-54b (1) (person is guilty of capital felony if convicted of “[m]urder of a member of the Division of State Police within the Department of Public Safety or of any local police department . . . [or] a constable who performs criminal law enforcement duties”); General Statutes § 54-1f (a) (“[p]eace officers, as defined in subdivision [9] of

section 53a-3, in their respective precincts, shall arrest, without previous complaint and warrant, any person for any offense in their jurisdiction”); General Statutes § 54-1f (c) (“[m]embers of any local police department or the Office of State Capitol Police and constables . . . when in immediate pursuit of one who may be arrested under the provisions of this section, are authorized to pursue the offender outside of their respective precincts into any part of the state in order to effect the arrest”).

The only logical conclusion to draw from the legislature’s repeated distinction in numerous statutory contexts between police officers who are constables and those who are members of a local police department is that the two positions are not synonymous. The fact that there is no language in § 7-433c that specifically refers to constables is, therefore, significant in light of the legislature’s express reference in other statutory provisions to constables *and* members of a local police department.

Moreover, if the legislature wants to grant benefits to both constables and members of a local police department in a single statutory provision, it knows how to do so. For instance, § 5-259 (a) (6) requires the state comptroller to procure health insurance for a surviving spouse and certain dependent children of a member of an organized local police department *or* a constable who performs criminal law enforcement duties. Had the legislature intended that constables receive benefits under § 7-433c, it presumably would have expressed its intention directly, as it did in § 5-259 (a) (6). E.g., *Oxford Tire Supply, Inc. v. Commissioner of Revenue Services*, 253 Conn. 683, 699, 755 A.2d 850 (2000) (if legislature had intended to confer tax benefit on certain class of taxpayers, it easily could have expressed that intent). Accordingly, we conclude that related statutory provisions clearly distinguish between members of a local police department and constables, and that constables were not intended to come within the class of persons eligible for benefits under § 7-433c.

II

We next consider whether the plaintiff is a constable or a regular member of a paid municipal police department under the law enforcement arrangements adopted by the town. The plaintiff claims that he qualifies for benefits under § 7-433c because the town has a paid municipal police department of which he is a member. We disagree on the ground that statutes pertaining to the organization and function of police departments and constabularies, when applied to the facts of this case as found by the commissioner, firmly establish that the town has a constabulary.¹⁴

Part I of chapter 104 of the General Statutes, entitled “Police Departments,” begins by providing that any

town may establish by ordinance an elected or appointed board of police commissioners “for the purpose of organizing and maintaining a police department in such town.” General Statutes § 7-274. The commissioners’ powers shall include the “general management and supervision of the police department . . . and of the property and equipment used in connection therewith . . . [and the] appointment, promotion and removal of the officers and members of such police department” General Statutes § 7-276.¹⁵ Furthermore, “[t]he expenses, salaries and all costs of maintenance and equipment for such police department shall be paid by such town” General Statutes § 7-277. Accordingly, the existence of a board of police commissioners that establishes, oversees and manages the operations of a municipal police force whose expenses are borne by the town is necessary to a finding that a town has a paid municipal police department as contemplated in the statutory scheme.¹⁶

Although a constable may be considered a police officer under § 7-294a and may perform some of the same duties as a regular member of a paid municipal police department,¹⁷ the two positions are fundamentally different. See General Statutes §§ 7-86 through 7-97. The statutory scheme provides that constables may be elected to a term of office; see General Statutes § 7-88; and that special constables may be appointed by the chief executive officer of a municipality; see General Statutes § 7-92; but provides that regular members of a police department are appointed and promoted¹⁸ by the board of police commissioners under regulations adopted for that purpose, hold their positions during good behavior and are removed for cause only upon the filing of written charges and after a hearing. General Statutes § 7-276. Regular members of a municipal police department and constables thus serve under different conditions of employment.

Finally, towns that do not have a police department, including those that have constabularies, are permitted to utilize resident state troopers in meeting their law enforcement needs. General Statutes § 29-5¹⁹ provides that towns “lacking an organized police force” may procure the services of resident state policemen from the regular state police force through agreements or contracts not exceeding two years and shall pay 60 or 70 percent of their compensation and other expenses, depending on the date of the contract.

We conclude that the town does not have a paid municipal police department but, instead, has chosen to protect its residents by creating a constabulary and utilizing the services of two resident state troopers to supervise its local law enforcement operations. The legal basis for this arrangement is described in the town charter and ordinances.

Constables are employed by the town pursuant to an

amended ordinance adopted in 1979 concerning the appointment and qualifications of constables. The amended ordinance vests the town board of selectmen with the sole authority to appoint constables and special constables and to prepare and to enter into agreements for their examination and training. With respect to the terms of employment, the ordinance further provides that the appointment of a constable shall terminate upon the occurrence of certain events. One such event involves “*the town[s] establish[ment] [of] a police department in accordance with the provisions of chapter 104, part I of the Connecticut General Statutes.*” (Emphasis added.) Town of East Lyme, Charter Ordinances and Special Laws, Amended Ordinance Concerning Terms of Appointment and Qualifications of Constables Æ 2.1.1.4 (amended February 20, 1979) (hereinafter Amended Ordinance Concerning Constables). There can be no plainer indication that the town is aware of the distinction between a police department and a constabulary, has chosen to establish a constabulary and knows that the continued employment of constables will not be appropriate if and when it decides to establish a police department.

In addition, the town charter authorizes the town selectmen “to enter into contracts or other agreements with the State of Connecticut, or the officials thereof, as may be necessary for the establishment of a resident State Policeman in the Town” Town of East Lyme, Charter Ordinances and Special Laws, Resolution Regarding Establishment of a Resident State Policeman in the Town of East Lyme (1998). A separate charter provision designates the first selectman as the chief of police, who may “exercise such authority as is necessary for the protection of and for the best interest of the Town” Town of East Lyme, Charter Ordinances and Special Laws, Resolution Designating the First Selectman as Town Agent to Act as Chief of Police (1998). Under these provisions, resident state troopers serve the town pursuant to a contract between the town and the state, which grants authority to the state police “to supervise and direct the operations of the appointed constables and police in the Town, including their working schedules” The contract also provides that the commissioner of public safety shall “exercise such supervision and direction over any resident police so appointed, as he deems necessary,” a fact noted by the plaintiff. These contract terms are in direct conflict with the statutory mandate that, in a town with an organized police department, the board of police commissioners shall be responsible for the general management and supervision of the department. General Statutes § 7-276. Furthermore, only towns “lacking an organized police force” may utilize resident state troopers to meet their public safety needs. General Statutes § 29-5. The fact that the town has contracted for the services of resident state troopers thus indicates that the town

does not have a paid municipal police department.²⁰ Accordingly, we conclude that the plaintiff is a constable, not “a regular member of a paid municipal police department”; General Statutes § 7-433c; and, consequently, is not eligible for benefits under § 7-433c.

The plaintiff argues, however, that towns have discretion to organize police departments in any way they choose, and that the absence of a board of police commissioners has no bearing on whether the town has a police department because this court previously has construed § 7-274 as “permissive” *Board of Police Commissioners v. White*, 171 Conn. 553, 563, 370 A.2d 1070 (1976). We are not persuaded.

In *Board of Police Commissioners*, this court concluded that § 7-274 was “clearly permissive,” and that the New Haven board of police commissioners was validly constituted because it derived its powers from city charter provisions enacted in 1861, even though its commissioners were appointed by the mayor, rather than elected, “as the later enacted § 7-274 . . . would require.” *Id.* The court, however, was referring to the fact that, in municipalities with police departments organized pursuant to charter provisions adopted *before* the enactment of § 7-274, such as New Haven, the requirement of a board of police commissioners under § 7-274 was “permissive” in the sense that, if the town did not have such a board, it could ignore the statutory provision. *Board of Police Commissioners* therefore has no precedential value in the present context because there is no evidence in the record that the town’s law enforcement operations are based on charter provisions preceding the enactment of §§ 7-274 and 7-433c.

Nevertheless, even if we assume that the existence of a board of police commissioners is not essential to a finding that a town has established a police department pursuant to chapter 104 of the General Statutes, the town has taken certain steps that only can be construed to mean that it does not have such a department. As we previously noted, these steps include the adoption of a provision in the amended ordinance regarding the termination of constables if “*the town establishes a police department in accordance with the provisions of chapter 104, part I of the Connecticut General Statutes*”; (emphasis added) Amended Ordinance Concerning Constables, *supra*, ¶ 2.1.1.4; and contracting with the state for the services of two resident state troopers, which is permitted by statute only if a town lacks “an organized police force” General Statutes § 29-5.

Although the plaintiff argues otherwise, the charter provision designating the first selectman as the chief of police and empowering him to “exercise such authority as is necessary for the protection of . . . the Town” does not overcome the fact that resident state troopers are responsible for the general management and super-

vision of the town's law enforcement activities and that the troopers are supervised in turn by the commissioner of public safety. The fact that the constables' duties may be similar to those of a regular member of a police department similarly fails to outweigh the fact that the town's law enforcement operations lack the bureaucratic and decision-making structure essential to a municipal police department established pursuant to chapter 104 of the General Statutes.²¹

The plaintiff claims that the town's choice of law enforcement arrangements, which do not include a board of police commissioners, cannot override the "state's edict" that municipalities with a paid, full-time police force must provide their officers with § 7-433c benefits. The plaintiff argues that the state's superseding interest in providing heart and hypertension benefits to local police officers is rooted in the nature of their work, the effect of which transcends the boundaries of a single community. The plaintiff, however, misconstrues the Heart and Hypertension Act, which, by its very terms, is applicable only to "a regular member of a paid municipal police department" General Statutes § 7-433c. Because the law enforcement arrangements that the town has chosen to adopt do not meet that standard, we conclude that the plaintiff does not qualify for benefits under § 7-433c.

The plaintiff's final claim is that the town concedes that members of its police force are entitled to benefits under § 7-433c. The plaintiff notes that the collective bargaining agreement between the police union and the town provides that "[o]fficers collecting benefits pursuant to [§] 7-433c . . . are not eligible for [insurance] benefits . . . for disabilities covered by [§ 7-433c]." The plaintiff argues that the reference to § 7-433c benefits in the collective bargaining agreement means that such benefits are available to constables employed by the town. The plaintiff further argues that an unreported case, namely, *Smith v. East Lyme*, Superior Court, judicial district of New London, Docket No. 527383 (April 5, 1994) (9 C.S.C.R. 450) (*Hurley, J.*), documents the fact that the town paid § 7-433c benefits to a former constable, thus implying a concession on the part of the town that constables are eligible to receive § 7-433c benefits. We disagree.

The mere reference to "officers collecting benefits pursuant to [§] 7-433c" in a collective bargaining agreement does not establish that constables are entitled to such benefits under the law.²² The plaintiff also mischaracterizes the *Smith* case, in which the plaintiff, Robert B. Smith, a former constable of the defendant town of East Lyme, sought damages arising out of the defendant's alleged breach of an agreement to pay the plaintiff certain disability benefits. Although, in *Smith*, the plaintiff filed a claim for benefits under § 7-433c and entered into an agreement with the defendant pur-

suant to which the defendant was to compensate the plaintiff temporarily for his disability, there was no indication in that case that the defendant entered into that agreement with the understanding that it was making payments thereunder pursuant to § 7-433c.

The plaintiff strains to convince this court that constables qualify for § 7-433c benefits, without recognizing that the legislature chose to limit § 7-433c benefits to regular members of “paid municipal police department[s]” General Statutes § 7-433c; see *Stitzer v. Rinaldi’s Restaurant*, 211 Conn. 116, 119, 557 A.2d 1256 (1989) (legislature knows how to use limiting terms when it chooses to do so). “[T]his court cannot, by judicial construction, read into legislation provisions that clearly are not contained therein.” *Stitzer v. Rinaldi’s Restaurant*, supra, 119. Accordingly, we conclude that, under the clear and unambiguous provisions of the statutory scheme, the town does not have a police department, the plaintiff cannot be considered a regular member of a paid municipal police department and, therefore, is not entitled to benefits under § 7-433c.

The decision of the board is affirmed.

In this opinion SULLIVAN, C. J., and PALMER, J., concurred.

¹ General Statutes § 7-433c provides in relevant part: “(a) Notwithstanding any provision of chapter 568 or any other general statute, charter, special act or ordinance to the contrary, in the event . . . a regular member of a paid municipal police department who successfully passed a physical examination on entry into such service, which examination failed to reveal any evidence of hypertension or heart disease, suffers either off duty or on duty any condition or impairment of health caused by hypertension or heart disease resulting in his death or his temporary or permanent, total or partial disability, he or his dependents, as the case may be, shall receive from his municipal employer compensation and medical care in the same amount and the same manner as that provided under chapter 568 if such death or disability was caused by a personal injury which arose out of and in the course of his employment and was suffered in the line of duty and within the scope of his employment, and from the municipal or state retirement system under which he is covered, he or his dependents, as the case may be, shall receive the same retirement or survivor benefits which would be paid under said system if such death or disability was caused by a personal injury which arose out of and in the course of his employment, and was suffered in the line of duty and within the scope of his employment. . . .

“(b) Notwithstanding the provisions of subsection (a) of this section, those persons who began employment on or after July 1, 1996, shall not be eligible for any benefits pursuant to this section.”

² In its opinion dated December 8, 2003, the board noted that, although the workers’ compensation commissioner’s findings and dismissal indicated that he was acting on behalf of the fourth district, he was acting, in fact, on behalf of the eighth district.

³ According to Burton’s records, the plaintiff was diagnosed with hypertension on January 21, 1992, when he was examined by Zeppieri.

⁴ The commissioner specifically found that, although Zeppieri and Burton advised the plaintiff that he had hypertension, the plaintiff “failed to follow through accordingly with filing a timely [form] 30C in [regard] to the claim.”

⁵ General Statutes § 7-274 provides in relevant part: “Any town may, by ordinance, establish a board of police commissioners . . . for the purpose of organizing and maintaining a police department in such town. . . .”

⁶ The town also cites *Zimmer* for the proposition that benefits under § 7-433c are limited to members of police departments and are not available to members of constabularies. Although this court does not rely on *Zimmer* as precedent, we note that the court in *Zimmer* interpreted §§ 7-433c and 7-274 under facts similar to those of the present case. See *Zimmer v. Essex*,

supra, 38 Conn. Sup. 419–20. The plaintiff, Charles Zimmer, who worked for the town of Essex as a constable, brought an action seeking benefits under § 7-433c after being diagnosed with ischemic heart disease. *Id.* The town of Essex did not have an organized police department pursuant to § 7-274, but employed a resident state trooper to supervise the plaintiff. *Id.*, 420. The plaintiff's duties included the routine duties of a police officer, including street patrol, traffic regulation, investigation of accidents and making arrests. *Id.* The commissioner dismissed the plaintiff's claim, however, after finding that "he was not a regular member of a paid municipal police department" within the meaning of § 7-433c. *Id.* On appeal, the board adopted the commissioner's finding and affirmed the dismissal of the plaintiff's claim. *Id.*

The plaintiff appealed to the Superior Court, which affirmed the board's decision. *Id.*, 421. The court reasoned that the terms of the statute were unambiguous and that, because the town of Essex did not have an organized police department under § 7-274, the plaintiff had failed to prove that he was "a regular member of a paid municipal police department." (Internal quotation marks omitted.) *Id.* As a result, the plaintiff was not entitled to benefits under § 7-433c. *Id.*

In *Zimmer*, the court did not discuss the specific attributes of a "municipal police department." The court merely agreed with the conclusion of the board that § 7-274 is "the only legislatively sanctioned method by which a Connecticut municipality may provide itself police protection through the organization of a police department." (Internal quotation marks omitted.) *Id.*

⁷ The contract provided that the town would "delegate the authority to the State Police to supervise and direct the operations of the appointed constables and police in the Town, including their working schedules, subject to collective bargaining agreements while at the same time the Town [would] retain responsibility, administrative and otherwise, for such personnel."

⁸ Because we conclude that the plaintiff is not entitled to benefits under § 7-433c, we need not reach his claim that the board improperly declined to address the issue of whether the commissioner correctly had concluded that the plaintiff's claim for benefits was untimely.

⁹ Although an award of benefits under § 7-433c is not a workers' compensation award, the Workers' Compensation Act is used as a "procedural avenue" for the administration of benefits under § 7-433c. (Internal quotation marks omitted.) *Carriero v. Naugatuck*, 243 Conn. 747, 755, 707 A.2d 706 (1998).

¹⁰ The legislature enacted § 1-2z in response to our decision in *State v. Courchesne*, 262 Conn. 537, 816 A.2d 562 (2003), and we have recognized that this statute "has legislatively overruled that part of *Courchesne* in which we stated that we would not require a threshold showing of linguistic ambiguity as a precondition to consideration of sources of the meaning of legislative language in addition to its text." *Paul Dinto Electrical Contractors, Inc. v. Waterbury*, 266 Conn. 706, 716 n.10, 835 A.2d 33 (2003) (construing Public Acts 2003, No. 03-154, § 1, which is now codified at § 1-2z).

¹¹ Although the term "police officer," as used in § 7-294a, applies to all of those persons described in the statute who perform police duties, the statute should not be interpreted to mean that a constable is a member of an organized local police department. The statute clearly differentiates between a sworn member of an organized local police department and a constable, both of whom are members of the larger class of persons known as "police officers." General Statutes § 7-294a.

¹² Section 7-277a (a) makes clear that the chief of police and the chief executive officer of such a municipality are two different persons because the latter must approve the police chief's decision, unlike in the town of East Lyme, where the duties of both the chief executive officer and the chief of police reside in the first selectman.

¹³ General Statutes § 7-277a (a) provides that the chief executive officer of the municipality must approve the decision of the chief of police or the board of police commissioners to make members of its police force available to another municipality.

¹⁴ The concurring opinion declares that the majority employs extratextual sources of meaning in this portion of its analysis. These sources allegedly include the town charter and ordinances, and the collective bargaining agreement between the police union and the town. We emphatically disagree. The majority first examines the statutory provisions pertaining to police departments and constabularies, including General Statutes §§ 7-88, 7-92, 7-274, 7-276, 7-277 and 29-5, for the purpose of distinguishing between them, and then reviews the town charter and ordinances to determine whether

they are consistent with either of these organizational arrangements. The majority thus applies the law, as defined in the relevant statutory provisions, to the facts of the case. The majority does not use the charter and ordinances to determine what a police department *is*. Rather, the majority uses them to determine whether the town's law enforcement agency is a constabulary or a police department under the relevant statutes. The concurring opinion's suggestion that we interpret a statute by seeking guidance from the facts of the case turns the process of statutory interpretation on its head. If the facts of a case were used to determine the meaning of any given statutory provision, there would be an infinite number of possible interpretations of the statute, which would depend on the circumstances of the case.

¹⁵ General Statutes § 7-276 provides: "Such boards shall have all of the powers given by the general statutes to boards of police commissioners, shall have general management and supervision of the police department of such town and of the property and equipment used in connection therewith, shall make all needful regulations for the government thereof not contrary to law and may prescribe suitable penalties for the violation of any such regulation, including suspension or removal from office of any officer or member of such police department. Such board shall have the sole power of appointment, promotion and removal of the officers and members of such police department, under such regulations as it adopts for the purpose, and such appointees shall hold office during good behavior and until removed for cause upon written charges and after hearing. The members of such police department shall have all such authority with respect to the service of criminal process and the enforcement of the criminal laws as is vested by the general statutes in police officers and constables."

¹⁶ We note that not all police departments are established in accordance with the statutory scheme contained in chapter 104 of the General Statutes. See *Board of Police Commissioners v. White*, 171 Conn. 553, 562-63, 370 A.2d 1070 (1976) (police department validly created pursuant to municipal charter provisions enacted in 1861).

¹⁷ For example, constables have the power, in their respective towns, "to serve and execute all lawful process legally directed to them"; General Statutes § 7-89; "when necessary . . . [to] command any person to assist . . . in the execution of [their] duties"; General Statutes § 7-90; and "to serve criminal process and make arrests for [the] commission of crime[s]." General Statutes § 7-92.

¹⁸ There are no statutory provisions governing the promotion of constables.

¹⁹ General Statutes § 29-5 provides in relevant part: "The Commissioner of Public Safety may, within available appropriations, appoint suitable persons from the regular state police force as resident state policemen in addition to the regular state police force to be employed and empowered as state policemen in any town or two or more adjoining towns *lacking an organized police force*, and such officers may be detailed by said commissioner as resident state policemen for regular assignment to such towns, provided each town shall pay sixty per cent of the cost of compensation, maintenance and other expenses of the state policemen detailed to such town, and on and after July 1, 1992, each town shall pay seventy per cent of such cost and other expenses. Such town or towns and the Commissioner of Public Safety are authorized to enter into agreements and contracts for such police services, with the approval of the Attorney General, for periods not exceeding two years. The Commissioner of Public Safety shall exercise such supervision and direction over any resident policeman so appointed as he deems necessary, and each appointee shall be required to conform to the requirements of chapter 67. . . ." (Emphasis added.)

²⁰ The concurrence states at the outset of its opinion that, although it agrees with the majority's conclusion that the plaintiff is not entitled to § 7-433c benefits because he is not a regular member of a paid municipal police department, it does not agree with the "analytical route" that the majority takes in reaching that conclusion. A close examination of the concurring opinion's analysis, however, does not support this assertion.

The analysis that the concurrence employs, which can be found in the last few paragraphs of its opinion, is based on: (1) the language of the relevant statutory scheme; (2) the remedial purpose of the statute; and (3) the law enforcement arrangements adopted by the town. Notably, the majority also considers two of these factors. Indeed, the concurrence cites several of the same statutory provisions that the majority cites in concluding that there is a legislative distinction between a police department and a constabulary. See part I of this opinion, citing General Statutes §§ 7-277a (a) and (c), and 7-294a; see also part II of this opinion, citing General Statutes

§ 29-5.

The only significant factor considered by the concurrence that was not addressed by the majority is the remedial nature of the statute and, thus, the application of the tenet of statutory construction that the statute should be liberally construed. This is because the lack of ambiguity in the statutory scheme does not require the application of a tenet that only becomes relevant when there is some doubt as to its meaning. Indeed, because the concurrence itself finds the remedial purpose of the statute to be a nonfactor in light of “*the persuasive statutory differences between municipal policemen and constables*”; (emphasis added); we find its invocation of this particular maxim rather puzzling. That being said, we ultimately are compelled to conclude that, despite its assertion to the contrary, the concurrence essentially agrees that the meaning of § 7-433c is plain and unambiguous when considered in the context of the broader statutory scheme.

²¹ The plaintiff argues that certain municipalities without a board of police commissioners, such as New London and Groton, provide police officers with benefits under § 7-433c. See *Bergeson v. New London*, No. 4489 CRB-2-02-2 (February 21, 2003), aff'd, 269 Conn. 763, 850 A.2d 184 (2004); *Funaioli v. New London*, No. 3346 CRB-1-96-5 (November 4, 1997), rev'd, 52 Conn. App. 194, 726 A.2d 626 (1999); *Herwerth v. Groton*, No. 3105 CRB-2-95-6 (December 24, 1996), aff'd mem., 45 Conn. App. 922, 696 A.2d 1324 (1997); *Griffin v. Groton*, No. 425 CRD-2-85 (March 23, 1988); *Buckov v. New London*, No. 140 CRD-2-82 (December 5, 1986), aff'd, 13 Conn. App. 566, 537 A.2d 1045 (1988). The cases cited by the plaintiff, however, do not stand for the proposition that a police department may exist in the absence of a board of police commissioners. Rather, those cases were decided on other grounds. In addition, the cases do not indicate whether the alleged police departments were established under city charter provisions that were adopted prior to the enactment of §§ 7-284 and 7-433c. See footnote 16 of this opinion. Consequently, they provide no support for the plaintiff's assertion that the town has a police department within the meaning of §§ 7-284 and 7-433c, even in the absence of a board of police commissioners.

²² The town suggests that the provision may have been included in the collective bargaining agreement to protect the town against a potential award of benefits over the town's objection or a potential demand for additional disability benefits by a constable already collecting § 7-433c benefits from a previous employer.
