

CIVIL DEFENSE:

When the citizens of a county are threatened by a disaster, the County Court has the authority to activate the county's civil defense personnel without requesting authority from the governor; said persons so activated have all rights, duties, and responsibilities granted them under Chapter 44 RSMo Supp. 1967 and by the rules and regulations thereunder.

OPINION NO. 6

May 13, 1970

Honorable G. William Weier  
Prosecuting Attorney  
Jefferson County Court House  
P. O. Box 246  
Hillsboro, Missouri 63050



Dear Mr. Weier:

This is in response to your opinion request dated November 13, 1969, which stated the following questions:

"My request to you is whether the Civil Defense people should participate in any assistance to the Sheriff's Department in case of such a disaster without the request of the Governor and at the request of the County Court and if they do so without the request of the Governor whether they would have any powers above those granted to a normal citizen and further whether they would incur the same liabilities as an ordinary citizen without any protection of the color of any office."

The first part of your question is whether the county court as a result of a county disaster in Jefferson County, can activate the county civil defense unit without a specific authorization from the Governor.

Section 44.010 RSMo Supp. 1967, defines Political Subdivision

Honorable G. William Weier

as ". . . any county or city, town or village, or any fire district created by law; . . ." and executive officer of any political subdivision as meaning "the county court or county supervisor or the mayor or other manager of the executive affairs of any city, town, village or fire protection district; . . ." It is clear that Jefferson County is a political subdivision within the meaning of Chapter 44 and that the county court is a governing body, i.e., executive officer recognized by Chapter 44.

Section 44.080, RSMo Supp. 1967 provides:

"1. Each political subdivision of this state shall establish a local organization for disaster planning in accordance with the state survival plan and program. The executive officer of the political subdivision shall appoint a coordinator who shall have direct responsibility for the organization, administration and operation of the local disaster planning for civil defense, subject to the direction and control of the executive officer or governing body. Each local organization for disaster planning shall be responsible for the performance of civil defense functions within the territorial limits of its political subdivision, and may conduct these functions outside of the territorial limits as may be required pursuant to the provisions of this law.

"2. In carrying out the provisions of this law, each political subdivision may:

"(1) Appropriate and expend funds, make contracts, obtain and distribute equipment, materials, and supplies for civil defense purposes, provide for the health and safety of persons, including emergency assistance to victims of any enemy attack; the safety of property, and direct and coordinate the development of disaster plans and programs in accordance with the policies and plans of the federal and state disaster and emergency planning;

"(2) Appoint, provide, or remove rescue

Honorable G. William Weier

teams, auxiliary fire and police personnel and other emergency operations teams, units or personnel who may serve without compensation;

"(3) In the event of enemy attack, waive the provisions of statutes requiring advertisement for bids for the performance of public work or entering into contracts."

The legislature intends that a local governmental entity "be responsible for the performance of civil defense functions within the territorial limits of its political subdivision."

Section 44.112, RSMo Supp. 1967, provides:

"It shall be the duty of every organization established pursuant to sections 44.010 to 44.130 and of the officers thereof to execute and enforce such orders, rules and regulations as may be made by the governor or adjutant general under authority of sections 44.010 to 44.130. Each organization shall have available for inspection at its office all orders, rules and regulations made by the governor, or under his authority."

The rules and regulations promulgated pursuant to this section are known as the "Missouri Disaster Operations Plan". The following rules are relevant to your question; subsection V (A) (1) (b) on page 7 states:

"During an emergency, the governing authority of each political subdivision will retain the responsibility for direction and control of its own governmental operations, personnel, resources, facilities and its own disaster units or organizations."

Subsection V (A) (1) (g) (1) on page 9 states:

"The elected and/or appointed public officials of political entities below the State level have the statutory responsibilities to provide for the health, safety, and welfare of the populace encompassed by the boundaries of their political subdivision. It is mandatory that these

Honorable G. William Weier

public officials recognize these inherent responsibilities and take appropriate action as required."

Subsection V (A) (3) (e) (1) on page 11 states:

"Upon notification of an impending natural disaster, chief executives of political subdivisions should take steps to implement their disaster plans to provide for the protection of life and property within its jurisdiction to the full extent of its capabilities."

It seems clear from a reading of Section 44.080, RSMo Supp. 1967, and the above quoted rules and regulations that when the citizens of the county are threatened by a disaster that the County Court has the authority to activate its disaster plan and utilize its civil defense personnel.

Since the political subdivisions executive officer has the right to activate civil defense personnel, said persons so activated have all rights, duties and responsibilities granted to them under Chapter 44 RSMo Supp. 1967 and the rules and regulations promulgated thereunder.

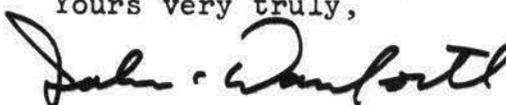
The final part of your question is whether civil defense personnel so activated would incur the same liabilities as an ordinary citizen without any protection of the color of any office. This question was answered by Attorney General Opinion No. 58, issued November 14, 1953 and I am enclosing a copy of said opinion.

#### CONCLUSION

When the citizens of a county are threatened by a disaster, the County Court has the authority to activate the county's civil defense personnel without requesting authority from the governor; said person so activated have all rights, duties, and responsibilities granted them under Chapter 44 RSMo Supp. 1967 and by the rules and regulations thereunder.

The foregoing opinion, which I hereby approve was prepared by my Assistant, Alfred C. Sikes.

Yours very truly,



JOHN C. DANFORTH  
Attorney General

Enclosure: Op. No. 58  
11-14-53, McDaniel