

PENNSYLVANIA COMMISSION ON CRIME AND DELINQUENCY  
CONSTABLES' EDUCATION AND TRAINING BOARD

**Minutes of the August 5, 2010, Meeting**

**Members Present**

Judge Richard Opiela, Allegheny Co, MDJ, Chairman  
A.R. DeFilippi, Court Administrator, Beaver County  
Teresa O'Neal, Juniata County Commissioner  
Captain Rodney Manning, PA State Police  
Julie Sokoloff, Constable, Montgomery County  
Constable Harry Walsh, Constable, Allegheny County

**Commission Staff Present**

John Pfau  
Donald Horst  
Sherry Leffler  
Sue Lanza  
Alison Taylor, PCCD Legal Counsel

**Members Absent**

Fred Contino, Constable, Delaware County

**Visitors**

Emil Minnar, Constable, Montgomery County  
Earl Markey, Constable, Montgomery County  
Ronald Clever, Constable, Lehigh County  
Daniel Watkins, Constable, Adams County  
Robert O'Brien, Constable, Lancaster County  
Lew Ginder, Constable, Carbon County  
Ian Castaneira, Constable, Dauphin County  
Colleen Ball, Indiana University

Hugh Braun, Constable, Montgomery County  
Frank Colantonio, Constable, Montgomery County  
Roger Metzger, Constable Monroe County  
Howard Kindred, Constable, Monroe County  
Stephen Billeck, Constable, Monroe County  
Vincent J. Della Vella, Constable, Bucks County  
Tom Impink, Constable, Berks County

**I. Call to Order**

The Constables' Education and Training Board (Board) meeting was held at 10:00 a.m. on Thursday, August 5, 2010, at the Crowne Plaza, 260 Mall Boulevard, King of Prussia, Pennsylvania.

The Honorable Richard Opiela, Chairman, called the meeting to order at 10:08 am and asked all to join him in the Pledge of Allegiance. Board members and staff then introduced themselves to the audience.

**II. Action Items**

Chairman Opiela asked if there were any questions from the Board regarding the **Minutes of the June 9, 2010, Meeting**. Captain Rodney Manning moved to approve the minutes and Commissioner Teresa O'Neal seconded the motion.

VOTING AYE: Opiela, DeFilippi, O’Neal, Manning, Sokoloff and Walsh  
VOTING NAY: None  
ABSTAINING: None

The motion carried.

Chairman Opiela moved to the next action item on the agenda, consideration of the **Financial Report for August 5, 2010**. Mr. Don Horst, PCCD staff, provided a review of the Financial Statement for Fiscal Year 2009-2010, as of June 30, 2010. He stated that the balance carried forward from the previous year was \$7,379,427.39. He added that total funds available, including fee collections, as of June 30, 2010 were \$9,386,344.29. Mr. Horst indicated that expenditures and commitments of \$6,995,652.95 leaves a fund balance of \$2,390,691.34. Chairman Opiela noted that since the last meeting, expenditures and collections have caused a reduction in the fund of approximately \$390,000.

Chairman Opiela indicated that Constable Harry Albert (Lebanon County) is doing some work on a “mass” basis in Allegheny County. Chairman Opiela indicated that Albert is a certified constable working for a private collection agency, which is doing collections in various counties, independent of the Administrative Office of Pennsylvania Courts (AOPC). Chairman Opiela asked PCCD staff to monitor whether or not his collections also include an assessment of the \$5 surcharge.

Captain Manning asked whether or not purchase orders have been received for those schools who will be up for renewal at the end of the year. Mr. Horst indicated that first drafts are due August 16, 2010. Two-year contracts (2011 – 2012) will be in place by the end of the year. Any expenditures not made before the end of 2010 will remain in the fund.

Chairman Opiela asked if there were any further questions regarding the Financial Report. There were none, and a motion to accept the Financial Report was made by Mr. A.R. DeFilippi. The motion was seconded by Constable Harry Walsh.

VOTING AYE: Opiela, DeFilippi, O’Neal, Manning, Sokoloff and Walsh  
VOTING NAY: None  
ABSTAINING: None

The motion carried.

Chairman Opiela moved to the next action item on the agenda, **Board Policy on Active, but Not Certified, Constables Attending Continuing Education Classes**. Ms. Sherry Leffler, PCCD staff, referred members to courses of action provided in the Board packet regarding constable attendance at continuing education classes. She indicated that current regulation requires that a constable repeat basic training, if there is a lapse in the constable’s certification for a five year period. If a constable attends prior to the five year lapse, staff will reactivate their certification once their insurance requirements are met. She indicated that it is believed that some constables are using their Act 49 training to secure work in areas other than for the minor judiciary. Ms. Leffler provided several examples and estimated costs to the fund for each. She showed that a total cost of \$95,691 was expended over the past few years to provide training to approximately 43 constables who do not maintain continuous certification, yet still attend continuing education training. Constable Julie Sokoloff asked for clarification of “current insurance practice,” in the first course of action.

Ms. Leffler stated that it refers to the constable keeping his insurance up-to-date each year. Ms. Leffler went on to explain three suggested courses of action to remedy the situation. The first course of action would require financial liability insurance coverage before any constable could participate in Act 49 continuing education classes. Chairman Opiela asked whether or not the constable could actually obtain insurance before they are certified. Mr. Pfau explained that, over the years, insurance companies began to require copies of letters sent by PCCD indicating that training requirements had been met, prior to the issue or reissue of insurance policies, creating an almost Catch-22 scenario. This course of action would require insurance to be obtained prior to the training.

Ms. Leffler explained that the second course of action would allow participation in continuing education classes every other year with lapses in certification of less than two years.

She then explained that the third course of action would allow participation in continuing education classes with lapses of two years or more, but less than five years, in certification.

She stated that PCCD staff recommended the third course of action be implemented by the Board. This would allow flexibility for those constables who have medical surgeries, disabilities, or other legitimate, documentable reasons (which will need to be defined by the Board), but will alleviate issues with individuals taking Act 49 training for other purposes.

Chairman Opiela asked whether or not the third course of action would also cover situations listed in the first two courses of action. Ms. Leffler indicated that it would. Constable Sokoloff indicated that it appeared that current practice of allowing five-year lapses is the same as the third course of action. Constable Sokoloff indicated her preference to require insurance prior to attending training, the first course of action. Mr. Pfau indicated that it is possible for a constable to have a legitimate lapse of one year. The third course of action would require insurance after a two-year lapse, and not penalize legitimate situations resulting in brief lapses of certification. Commissioner O'Neal asked whether, if the Board selected the third course of action, it would have an effect on constables who are currently not in compliance. Ms. Leffler indicated that those constables would have to obtain liability insurance prior to attending training. She stated that comprehensive research was done in an effort to determine the training costs involved in training those individuals who do not maintain liability insurance and are not certified. Those constables cannot be contributing to the training fund.

Constable Sokoloff indicated that it was unfair to allow training to occur, if the individual does not maintain insurance, cannot work, and is not providing financial support to the training fund. She said it is important to have a policy in place to change this situation. Commissioner O'Neal asked if there would be negative impact on PCCD staff in order to implement any of the suggestions. Mr. Pfau indicated that it would be easy to implement within the redesign of the constable records system. Ms. Leffler indicated that staff is currently monitoring the situation manually; automating the requirement within the records system redesign would make it easier to monitor. She reminded the Board that the current system prohibits registration in annual firearms training, but not continuing education. Chairman Opiela asked Ms. Alison Taylor, PCCD Legal Counsel, for guidance. Ms. Taylor indicated she did not see any difficulty, because this situation dealt with Board policy. Commissioner O'Neal asked what the ramifications would be if the first course of action was adopted and a legitimate medical situation occurred. Mr. Pfau indicated that exceptions would have to be documented, and case-by-case determinations would have to be made. He indicated that the effect would be the same if policy allowed the constable to attend training without insurance, then required insurance to be obtained within a specific period of time. A brief discussion occurred regarding a

specific situation where a constable attended basic training and became certified in 2001, but never obtained liability insurance. He had to repeat basic training in 2008 and, again, never obtained liability insurance. Now, years later, he is having difficulty obtaining liability insurance. The insurance company is unwilling to insure him because he has never been certified. Mr. Pfau indicated that the insurance requirement was more strictly-enforced, starting in 2001.

Chairman Opiela asked if there were any further questions regarding the **Board Policy on Active, but Not Certified, Constables Attending Continuing Education Classes**. There were none, and a motion to accept the recommended third course of action was made by Constable Sokoloff. The motion was seconded by Captain Manning. Ms. Leffler indicated that staff will formulate a list of “other legitimate, documentable reasons” to clearly define situations for the Board. Commissioner O’Neal requested staff to continue monitoring the situation, and provide the Board with updates regarding the success or failure of the course of action. Mr. Pfau indicated that a written policy would now need to be developed and presented to the Board prior to enforcement of the action, possibly in 2011.

VOTING AYE: Opiela, DeFilippi, O’Neal, Manning, Sokoloff and Walsh  
VOTING NAY: None  
ABSTAINING: None

The motion carried.

Chairman Opiela moved to the next action item on the agenda, **Instructor Review and Certification**. Ms. Leffler reviewed the applications and gave staff recommendations, as follows:

## **HARRISBURG AREA COMMUNITY COLLEGE**

### **Simon Jackson**

#### Requested Subject Certifications:

Role of Constable in Justice System	Mechanics of Arrest
Professional Development	Prisoner Transport and Custody
Civil Law and Process	Court Security
Criminal Law and Process	Crisis Intervention
Use of Force	Firearms
Defensive Tactics	

### **Robert Powers**

#### Requested Subject Certifications:

Firearms

## William Wenner

### Requested Subject Certifications:

Role of Constable in Justice System	Mechanics of Arrest
Professional Development	Prisoner Transport and Custody
Civil Law and Process	Court Security
Criminal Law and Process	Crisis Intervention
Use of Force	Firearms

Staff recommended certification of each individual for all subjects listed.

Chairman Opiela asked if there were any questions from the Board regarding the applications. Hearing none, he asked for a motion to approve the certifications. Mr. DeFilippi made a motion to approve the applications of the three instructors. Constable Walsh seconded the motion and Chairman Opiela called for a vote.

VOTING AYE: Opiela, DeFilippi, O'Neal, Manning, Sokoloff and Walsh

VOTING NAY: None

ABSTAINING: None

The motion carried.

### **III. Discussion Items**

The next item on the agenda was **Board Policy on Testing**. Chairman Opiela recognized Ms. Taylor who provided an overview of additional information gathered since the last meeting, when the item was tabled. Ms. Taylor indicated she is still researching the issue. She indicated that the Board is required under the Americans with Disabilities Act (ADA) to provide reasonable accommodations for constables who have learning disabilities or may be slow readers. Ms. Taylor indicated she has concerns about relaxing any standards regarding certifications, especially with firearms.

She indicated she has contacted the Pennsylvania State Police to determine their ADA policy and found that they are in the process of re-evaluating current policy and drafting new. Ms. Taylor indicated she would prefer to be guided by their policy, and that of the Municipal Police Officers' Education and Training Commission (MPOETC). She is aware that MPOETC allows additional time for written examinations, a reasonable accommodation. She indicated that some of the constable training contractors are already providing this in their classes. Ms. Taylor indicated that the policies she has reviewed also provide that certification for a particular skill have certain, specific standards; for example, if a person is missing a finger/s and cannot demonstrate that they can reload the weapon safely, they will not be certified, because it becomes a personal and public safety issue. She explained that more research is required for the skilled aspects of training.

Ms. Taylor indicated that the learning disability issue is more easily accommodated. Chairman Opiela reminded the Board that this issue was first discussed during the June 9, 2010, meeting. Specific questions arose regarding ADA, instructors reading tests to students, and a question about language barriers and whether or not there is anything in place for individuals with Spanish as their primary language. Ms. Taylor also noted that informal discussions have centered around the question of what are the essential aspects of a constable's job. If he is serving summonses, warrants, or other

paperwork, he has to be able to read. She continued that one of the essential parts of a constables' job is to be able to read the paper that he has to serve and needs to understand the name of the street on the paperwork. She indicated that the Board is only required to provide *reasonable* accommodations, if the individual approaches and requests assistance for the written examination portion of the training. Chairman Opiela asked if written notification must be made to the training population, so that they would be able to give advanced notice to the schools, if needed. Ms. Taylor indicated that individuals must bring the disability to our attention and work with the instructor for a *reasonable* accommodation. Ms. Taylor suggested that, possibly, publication of a notice that the training is ADA-compliant would be sufficient. Mr. DeFilippi indicated formal publication of ADA-compliance would be the better approach, because the Board is required to be compliant, whether advertised or not.

Commissioner O'Neal asked whether or not the ADA language is already included. Mr. Pfau stated that the language is not there. He further indicated that the original reason for bringing the issue to the Board was because it has become clear, over time, that individuals have been struggling to comprehend the written tests, rather than their having visual reading disabilities. He indicated that no one has ever approached the schools or PCCD and requested accommodation under ADA. Mr. Pfau indicated that the issue of instructors reading tests to individuals brought up additional questions and ADA-compliance. He stated that it is essential the constable be able to read and understand the court paperwork or special instructions they receive during the course of their duties. Mr. Horst asked if the issue needed a formal regulation or would a policy statement be sufficient. Ms. Taylor indicated that a policy statement should be sufficient because the law already exists; a policy statement indicates that we know that we are obliged to be compliant and will abide by the law. Ms. Taylor indicated that she would have information in place for the November 2010 meeting.

#### **IV. Informational Items**

The next item on the agenda was **Status of Certifications Issued**. Mr. Horst provided an overview of certifications. He stated that, currently, there are 1,351 certified constables, and that 3,566 individuals have been issued certification numbers as of July 22, 1010. He added that over 700 new individuals have been added to the system since January 2009. Chairman Opiela added that 406 have been added since the February meeting.

The next item on the agenda was an update on the **Taser®™ Survey Results**. Ms. Sue Lanza, PCCD staff, provided an update on the results of the second survey mailed to constables. She stated that an addendum to the Board packet was provided, which briefly outlined survey results, as received from the Pennsylvania State University. She indicated that approximately 1,200 surveys were mailed and 344 were returned. She stated that 63% of the respondents said they would participate in training, if PCCD required the purchase of a Taser prior to taking the training; 71% said they would purchase a Taser, if PCCD provided the training. Further, 67% of the respondents said they would purchase cartridges for qualification, whether or not PCCD required such a purchase. She added that 57% of the respondents would participate in the training, if PCCD required the purchase of practice cartridges; 51% said that they would purchase practice cartridges, if PCCD provided the training. She also indicated that 16 surveys indicated that the respondent was a certified Taser Instructor.

Chairman Opiela compared that survey response to the 381 constables who also responded to the 2010 Act 49 constable demographic evaluation. Mr. Pfau indicated that the response was typical for requests for information from constables. Ms. Leffler added that there were over 600 responses to

the initial Taser survey. The purpose of the survey was to determine how many of the 1,200 constables in the training population were really interested in this type of training, and the impact it would have on available training funds.

Captain Manning asked whether or not inquiry had been made regarding the impact of this type of training on liability insurance costs. Chairman Opiela indicated that the question has never been raised. Mr. Pfau indicated that the same question arose when consideration was being given to providing baton and OC training. All of these devices are considered as optional equipment for the constable. He added that as a training provider, it makes sense to provide as much training as possible on all options on the use of force continuum. Whether or not the equipment is carried is at the discretion of the constable. Chairman Opiela inquired as to whether a familiarization, not certification, course would be provided to constables, similar to the presentation given in Erie earlier this year. Mr. Pfau indicated Penn State did provide a condensed version of that presentation in a video, which has since been posted on PCCD's website. The video provided a brief discussion and description of the Taser.

Constable Sokoloff indicated that the survey results showed that only 208 out of 1,200 constables were interested in taking the training. She also said the Board has found that a constable is not prohibited from obtaining taser training on his own and carrying one, unless the constable's county prohibits it. Chairman Opiela added that the Attorney General's office would not provide any written opinion constables' receiving taser training and carrying, but they would not object to it. Captain Manning asked if there was any case law regarding a constable being sued after using a Taser. There was no response to the question.

A comment from audience member, Constable Robert O'Brien, who identified himself as an certified Taser Instructor and State President of the Pennsylvania Fraternal Order of Constables (PaFOC), indicated the reason there has not been much feedback is because constables have been getting the training and certification directly from Taser International. He indicated that the current insurance carrier for PaFOC provides insurance for any weapons the constable is certified to carry without additional cost. Constable O'Brien indicated that an individual cannot purchase a Taser from the only distributor in Pennsylvania, OfficerStore, Coatesville, unless the individual is firearms-certified. Constable O'Brien indicated that the business had obtained a written opinion from the Attorney General that if the person is firearms certified at the time of purchase, the Attorney General's office would be happier. Chairman Opiela requested to see a copy of that document. Constable O'Brien indicated he could make that happen.

Captain Manning repeated his question regarding the existence of case law involving constables and Taser incidents. Constable O'Brien indicated that he was not aware of any cases. Captain Manning voiced a concern that, because it is a new device, there will probably be a dependency on it. Constable O'Brien indicated he felt constables would be less likely to actually use the device, simply because they have taken "the ride on the lightning," and it is not a pleasant experience. Constable Sokoloff asked how much O'Brien charged for the training. He indicated that he charges \$75. The amount covers lunch and three cartridges. Constable Sokoloff indicated that, if the Board would reimburse those who take the training, it would be more cost-effective than providing training for hundreds of dollars. Constable O'Brien indicated that he has spoken with Mr. Horst, asked that the Board "bless" the training, and they "will take care of the training." He indicated that he knows that there are more than 14 instructors throughout Pennsylvania; he further indicated that he is from Lancaster County and can handle the central Pennsylvania area. Captain Manning voiced a concern

that, if the training were to be provided, the schools might have difficulty locating instructors. He directed the question to Frank Colantonio, Temple University contractor, asking if there were any certified Taser Instructors currently on his staff. Mr. Colantonio indicated there were five. Mr. Pfau added that initial cost projections for Taser training also included instructor certification costs, if needed by the schools.

Constable Walsh asked if there were any lawsuits pending or otherwise. Captain Manning indicated that Taser International has only lost one lawsuit, and the case is currently under appeal. He further indicated that it does not preclude any department or individual from being sued for misuse of the Taser. The issue is training and the application of the device by the individual. It comes down to the common sense and judgment of the individual when making the choice to deploy, not the device itself. Constable O'Brien stated that he provides use of force documents and standard operating procedures taken from Warwick Township Police Department (Lancaster County) to those taking the training.

## **V. Executive Session**

Chairman Opiela asked if there were any other comments regarding the Informational Items. At 11:10 pm, Chairman Opiela asked members of the audience to please leave the room while the Board met in Executive Session. Upon return from Executive Session at 11:25 am, Chairman Opiela indicated that the next meeting will be held Thursday, November 18, 2010, at 10:00 am at the PCCD offices in Harrisburg. Chairman Opiela then moved on to the next item on the agenda, **Public Voice**.

## **VI. Public Voice**

Constable Lew Ginder, Carbon County commented that just because only 300 people returned the survey doesn't mean that the rest of the constables do not want it. Closer analysis is needed. He also indicated that ADA requirements could be solved by having someone like himself, a special education teacher, on stand-by in the event services are needed.

Constable Robert O'Brien, Lancaster County, indicated that he would play devil's advocate regarding ADA requirements for accommodation and firearms, stating, "No way." He further indicated that someone who is going to become a constable and cannot comprehend English in the first place will have a real hard time doing the job.

Constable Earl Markey, Montgomery County, indicated that he also has a background in education. He commented that he just completed basic training and found that many test items were ambiguous and not of high quality. He indicated that the training was superior, but when he took the tests, they did not match the level of training. The tests were disappointing.

Constable Hugh Braun, Montgomery County, indicated that he has a master's degree in education, and a principal certificate from Penn State University. He commented he felt that some of the test questions were designed to do nothing more than try to trick, as opposed to test knowledge or content. He suggested that someone take a second look at the test questions. Constable Braun then commented on the Board policy on active but not certified constables, indicating that he was in this type of situation a few years ago. He had to resign his position in one county due to accepting a position in a different county. He missed several years of training and had to attend basic training a second time. Constable Braun then asked the Board and PCCD to interpret the law as to whether or

not a constable can go outside his home county and do civil process. Mr. Pfau answered that he was not in a position to determine legality within Constable Braun's county, and referred him back to the minor court rules or local county practice for guidance. Mr. DeFilippi referred Constable Braun to the AOPC website and their minor court rules committee for assistance.

Constable Emil Minnar, Montgomery County, stated that civil complaints can be served anywhere in the Commonwealth, orders of eviction are served only in the county where you are working and within the judicial district, and orders of execution can be served by any constable, if none is available within the county. Constable Minnar also suggested that the job requires the ability to read properly and accurately, and fill-out forms. He continued that, if the individual has a problem reading, he will obviously have a problem writing. The forms are the basis for what is done in terms of court orders. Constable Minnar also indicated that the Board has to look at civil and criminal training, the two areas that are the source of income for constables. Currently, these areas account for only 30% of the training (12 hours in each area), and he felt that this was insufficient.

Constable Ian Castaneira, Dauphin County, stated that he appreciates the standardized training provided by PCCD because he thinks there are a lot of bad constables out there, and the Board is trying to make things better. He also feels that the standards taught are mostly ignored by District Justices. He added that there is no control over Magisterial District Justices (MDJs), and every MDJ decides to make the laws whatever they feel like. He furthered that it is nearly impossible to get the MDJ to comply if he is doing something that he's not supposed to be doing. The constable has to keep his mouth shut about a situation or he won't get paid. Constable Castaneira furthered that if we are to professionalize the constables and make them do their job correctly, there has to be a way to force professionalism from the MDJs. Chairman Opiela commented that the Board is trying to put something together to be uniformly presented during the annual MDJ training, in an effort to narrow the communication gap with constables and magistrates.

Constable O'Brien stated that a lot of MDJs have fiefdoms going. They are elected officials and only spend a few hours a week in their offices. He offered that unless there is a punitive consequence from AOPC for their actions, the entitlement attitude will not change. He added that a bigger issue is the need to weed out the bad constables. Chairman Opiela added that he believes there is a certain amount of complacency and ignorance on the part of magistrates about what it takes to do the job of a constable. He indicated that he tries to educate those in his own county, but believes there is a need to provide a uniform opportunity to educate everyone. The reality is that there are enough magistrates who do not honestly appreciate the ramifications of their actions. Hopefully, better education about constable duties will cause a change in habits.

Constable Castaneira repeated his concern about bad constables and district justices. He stated that the political connections, friendships and family relations are what allows the MDJ to continue his actions with constables who are doing the job poorly. He continued there is no control over the situation. Chairman Opiela offered that the election process is the control, and acknowledged that it is very difficult to remove someone from office once they are voted in. Mr. Pfau offered that Representative Thomas Caltagirone and his office has been working to try and make improvements in the constable system through legislation. He stressed that the issues to be included in the legislation will depend on the constables and strongly suggested that they voice their input to that legislation rather than let someone else do it for them. Constable Castaneira offered that it was time for constables to stop acting like children and get together to work to that end, regardless of association affiliation. He indicated that the legislation does address the constable, but it also needs

to address the judicial system approach to constables because that is part of the problem. Mr. Pfau added that as a training entity, PCCD has to accept whoever comes to us for training; we have no influence once the training is completed.

Constable Dan Watkins, Adams County, related an incident where he had transported an individual on warrant from a minor traffic violation. On the way to the prison, he proudly told Watkins about his past criminal history in a New Jersey incident against a police officer. He indicated that prior knowledge of that kind of information would be very helpful for constable safety. Constable Watkins stated that following completion of basic training, he had no idea what to do with the first document handed to him for service – basic training did not include the specific instruction on how to serve documents and explain the differences in fee bills and processes in multiple counties. He agreed with others who had previously expressed the need for cooperation among constables and organizations, and guidance and clarification from the Board regarding training.

Chairman Opiela acknowledged that the Board is aware of the issues and are just as frustrated. He further indicated that it appears that constables have the ear of Pennsylvania Supreme Court Chief Justice Ronald Castille regarding changes; in that, he has directed the House and Senate to put information together to create something workable, before training or other changes are forced. Chairman Opiela encouraged constables to work as a group, not factions or counties, to come up with big point issues and present them to Justice Castille and legislators. He reminded the audience that this would be the only way to have a positive influence on change. Mr. Pfau added that, if constables are able to encourage the legislature to simply define what a constable is, in state statute, either as law enforcement, peace officer, officer of the court, etc., powers and duties would be derived from that definition.

Constable Don Impink, Berks County, commented on the fund finances, specifically, income and expenditures. He indicated that he had heard that the fund was short. He also inquired as to a constable surcharge increase. Chairman Opiela indicated that the surcharge issue was still being investigated, that statistics have not been received from all counties. He repeated that it is expected that the final examination of statistics from all counties will reveal that the civil portion of the \$5 surcharge is being collected, and that the problem lies with the fine and cost warrant fees not being fully-collected. He indicated that it requires education of the MDJ, and that collection should be per docket, not per defendant. He further stated that ultimately there is an effect on the collection of funds for the Department of Revenue. Chairman Opiela indicated that all of the statistics must be analyzed to determine what the counties are collecting or not collecting. He further stated that MDJ education must also be done. Following both of these efforts, and assuming that collections are not sufficient, it can then be shown to the legislature that an increase in the surcharge is necessary.

Constable Impink then asked if consideration had been given to trim costs. He offered that continuing education training should eliminate the Friday evening portion of class (4 hours) and keep the hours on Saturday and Sunday, reducing the total time to 16 hours, a cost savings. Chairman Opiela stated that such a change would run contrary to survey results provided in 2009, and contrary to Justice Castille's opinion on training time and the best interests for constables. Mr. Pfau added that the issue was discussed at the June Board meeting. An arbitrary reduction in training hours in an effort to cut costs is not sound.

Constable Ronald Clever, Lehigh County, questioned a topic raised during the earlier part of meeting, whether or not a county contract giving a particular constable all of the work needs to be a bid

situation. Chairman Opiela advised Constable Clever that he had misinterpreted the situation regarding Harry Albert. Chairman Opiela explained that work first goes to the area constables, and if not served, the paperwork is forwarded to the contracted company for follow-up, similar to a collection agency. Mr. Albert is not receiving exclusivity. Chairman Opiela indicated that he did not know the county policy regarding their bidding process.

Constable Clever then moved on to the requirement to have liability insurance prior to training. He indicated that there are quite a few reasons why a constable would keep training current and not insurance; such as, there is no guarantee of magistrate work. He did not think it is good policy to require the insurance for the training. Constable Clever stated that a constable may receive income from the other things constables do besides serving the magisterial court system. He stated that, for those things, the insurance is not a statutory requirement. Constable Sokoloff stated that, if the constable does not have insurance and the MDJ *did* offer some work, he would not be able to do the work. Constable Clever acknowledged that was true. He admitted that he was in that type of position. He got insurance right away, kept it for a year or two, then dropped it for several years, because there was no opportunity to do magistrate work. It was all sewn-up. He is insured now, but that is his choice, and that he can go on and off insurance as his prudence and judgment dictates.

Constable Braun asked whether or not the Board had considered elective training. Mr. Pfau stated that, approximately five years ago, modules for Optional Training were first offered. He stated that these trainings have only been attended by approximately 10% of the constable population, resulting in classes with five or six students. Optional Training did not replace any of the mandatory 20 hours.

## **VII. Adjournment**

Chairman Opiela asked if there were any more comments from staff or Board members. There were none, and he called for a motion to adjourn. Constable Walsh made a motion to adjourn. Chairman Opiela adjourned the meeting at 12:25 p.m. He noted that the next meeting will be held Thursday, November 18, 2010, at the PCCD offices in Harrisburg.