

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

Minutes of the February 11, 2011 Meeting

Members Present

Judge Richard Opiela, Allegheny Co, MDJ, Chairman
Fred Contino, Constable, Delaware County
A.R. DeFilippi, Court Administrator, Beaver County
Teresa O'Neal, Juniata County Commissioner
Julie Sokoloff, Constable, Montgomery County
Harry Walsh, Constable, Allegheny County

Commission Staff Present

John Pfau
Donald Horst
Sherry Leffler
Kathy Clarke
Alison Taylor, PCCD Legal Counsel
Norma Hartman

Members Absent

Captain Rodney Manning, PA State Police

Visitors

Jack Garner, Constable, Dauphin County
Emil Minnar, PA State Constables Association
Mike Marcantino, Indiana University
Barbara Butcher, Mansfield University
Teresa Conley, Temple University
Anthony Luongo, Temple University
Ted Mellors, Penn State University
Dennis Glaus, Penn State University
Kirk Hessler, Penn State University
Beth Dombrowsky, Harrisburg Area Community College
Steven Sokoloff
Sue Lanza

I. Call to Order

The Constables' Education and Training Board (Board) meeting was held at 9:30 a.m. on Friday, February 11, 2011, at the C. Ted Lick Wildwood Conference Center on the campus of Harrisburg Area Community College, Harrisburg, Pennsylvania.

The Honorable Richard Opiela, Chairman, called the meeting to order at 9:35 am and asked all to join him in the Pledge of Allegiance. Board members and staff then introduced themselves to the audience. Mr. John Pfau, PCCD staff, introduced PCCD's newest Constables' Education and Training staff member, Kathy Clarke. Ms. Clarke previously ran PCCD's Crime Prevention Training Program and is a former deputy sheriff.

II. Election of Board Officers

Chairman Opiela turned the floor over to PCCD legal counsel, Alison Taylor, for the election of officers. Ms. Taylor solicited nominations for Chair of the Constables' Education and Training Board. Constable Sokoloff nominated Judge Opiela. Constable Contino seconded the motion. Chairman Opiela nominated Commission Teresa O'Neal. Commissioner O'Neal respectfully declined the nomination because of her current schedule. Commissioner O'Neal motioned that the nominations be closed. Mr. DeFilippi seconded the motion. Chairman Opiela accepted the nomination and called for a vote.

ROLE CALL VOTE:

VOTING AYE: Sokoloff, Contino, DeFilippi, O'Neal, and Walsh

VOTING NAY: None

ABSTAINING: None

Chairman Opiela acknowledged that he will accept the Chairman position for 2011. He then solicited nominations for Vice-Chair. Constable Walsh nominated Constable Fred Contino. Chairman Opiela seconded the motion. No other nominations were made. Chairman Opiela closed the nominations and called for a vote.

ROLE CALL VOTE:

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

VOTING NAY: None

ABSTAINING: None

Chairman Opiela noted that Captain Manning was absent.

III. Executive Session

Executive Session was called at 9:40 a.m. Chairman Opiela asked that audience members leave the room.

Chairman Opiela resumed the meeting at 10:00 a.m. Chairman Opiela noted that the two items discussed during Executive Session were the Fraternal Order of Constables lawsuit and a training grievance.

IV. Action Items

Chairman Opiela asked if there were any questions concerning the minutes of the **November 18, 2010, Meeting**, Pages 1-19 of the Board Packet. Constable Contino brought up the reference to the Constable fee bill on Pages 9 and 18. He noted that there was nothing mentioned in the minutes about his asking Ms. Taylor to look into the interpretation of the fee bill. He stated that this was mentioned in the Public Voice section of the minutes only. Chairman Opiela said that Ms. Leffler was going to talk about the fee collection report later during the meeting. Chairman Opiela said that there was a question on AOPC's interpretation of the CETA fee and the interpretation of how it is collected. The third paragraph on Page 9 should be corrected to include Constable Contino's request for clarification from PCCD's legal counsel as to whether AOPC's interpretation of the Constable fee bill is correct or if Constable Contino's interpretation is correct. Commissioner O'Neal motioned to

approve the minutes with corrections. Mr. DeFilippi seconded the motion. Chairman Opiela called for a vote.

VOTING AYE: Opiela, Contino, DeFilippi, O'Neal, 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 February 11, 2011**, pages 20-23 in the packet, and a handout on fee collections that Ms. Leffler provided. Ms. Norma Hartman, PCCD fiscal staff, began a review of the Financial Statement for Fiscal Year 2010-2011, for the period ending December 31, 2010. She stated that the balance carried over from the previous year was \$6,918,158.17. Fees collected for the first half of the 2010-2011 Fiscal Year ending December 31, 2010, were \$1,188,029.80. Based on an estimate of collections for the entire year (\$2,200,000.00), the total funds available as of December 31, 2010, were \$9,118,158.17.

Ms. Hartman then turned the floor over to Ms. Leffler for a discussion on fee collections. Ms. Leffler had received information back from the Administrative Offices of PA Courts (AOPC) regarding CETA Collections. She referenced the handouts provided to Board Members. The first page, a legal-sized paper handout, was a breakdown by county of Server Fees Assessed, compared with CETA Surcharge Collections for 2007, 2008, and 2009. Ms. Leffler said there was an issue with the 2008 numbers. The issue was that 24 counties broke even in 2008, meaning the server fees that were assessed were identical to the CETA surcharges collected. If a server fee was assessed on a document, then there should also be a CETA surcharge collected. On her second handout, Ms. Leffler took one county from each region of the state for the last three years and identified differences between the number of server fees assessed and the number of surcharges collected. She calculated the differences between the amounts actually collected and the amounts that should have been collected, if they all had the \$5 CETA surcharges assessed. The total for the six counties was \$148,915. To expand it further, the first page detailed the number of server fees assessed, compared with the number of CETA surcharges collected. The differences between those two numbers, times the \$5 surcharge, resulted in a total of \$565,720 in CETA surcharges that were, presumably, not collected in 2007, 2008, and 2009. Ms. Leffler stated that she provided this information to the Board in order to seek guidance on what the next step should be.

Chairman Opiela said the first thing that should be done is to find out what Chester County is doing, because Chester County is collecting more CETA surcharges than server fee assessments. This is interesting, because Chester County is the one county that has really tried to get a grip on the constable system. Chairman Opiela said that he didn't think Chester County had it all right, but they did not have it all wrong either. There were a few counties, including Indiana and Fayette, that reported a greater number of cases with CETA surcharges collected than the number of cases with server fee assessments. But most counties did not collect enough money.

Chairman Opiela said the question for Ms. Taylor to look at is: "Is Chester County collecting CETA fees on warrants issued on *a* docket vs. *per* docket as AOPC has interpreted it?" Mr. Contino said he does not work for Chester County and that every county is different. Mr. Pfau said that Chester County also has a constable handbook, which is an extensive document that addresses the fees very

specifically. Mr. Pfau said that staff would have to contact Chester County to see what they are doing differently, resulting in these outcomes. Chairman Opiela wondered if their magistrates assess the \$5 fee each time a warrant is served, even if it is on the same docket. Mr. Pfau said that staff would have to contact Chester County to look into this. Chairman Opiela noted that the report data is only from Traffic and Non-Traffic dockets. It does not contain data from civil and criminal cases; previous reports have looked like those fees are being collected correctly.

Chairman Opiela asked if PCCD could go back to AOPC regarding Chester County and ask Chester County's administrator to find out from their magistrates how they are assessing the fees. Chairman Opiela also said that to verify the accuracy of the data from the spreadsheets, staff should find out the number of Traffic and Non-Traffic warrants issued in those counties for those years. Constable Contino questioned how counties handle multiple warrants. He gave an example that, in Montgomery County, one warrant was issued to the constable but there were five warrants in the system for that defendant. Constable Contino said that when he returns a warrant, the President Judge says that he is entitled to the fee for attempting warrant service. AOPC says that when a warrant is returned, the Auditor General wants it back in 60 days and the server fees should be removed, but the CETA surcharge remains. Constable Contino said he doesn't think this should happen because, if the warrant was worked on, the constable should get paid. He said that the warrant sits in the court, but no constable fees are collected. He said the \$5 CETA is collected, but not the constable fees of \$27.50. Constable Contino said 2,700 constables didn't get paid the money they should have been paid. Chairman Opiela said he sees it the opposite way. Mr. Pfau says in 2006 this changed because the fees and surcharges changed. He explained that the surcharge stayed at \$5 and went from warrant to docket, but some counties are still following the old guidelines collecting fees per warrant, not per docket. Chairman Opiela said that in his magisterial district in Allegheny County, if there are 24 warrants for one individual, they collected 24 CETA surcharges. Some of the district magistrates in Allegheny County may issue only three of those 24 warrants, so they are probably not collecting CETA fees on warrants four through 24. Constable Contino said that a computer is generating it and, unless a warrant is assigned to a constable, there is no constable surcharge collected. The CETA fee is still on the warrant, even if the warrant isn't assigned to a constable. Chairman Opiela said that we need to find out, then, when a warrant is issued, whether or not it fits in the category of cases with CETA assessments.

Commissioner O'Neal asked whether there is a formal audit of the process regarding the collection of fees. Mr. Pfau said that the Auditor General's office audits a certain percentage of magisterial district offices each year. The Auditor General's office contacts PCCD to get a list of certified constables in particular counties to see if they have issued process to certified constables. In Mr. Pfau's informal talks with the Auditor General's office, they have stated they have found circumstances where the CETA surcharges were not assessed. Mr. Pfau said that the Auditor General's office makes recommendations on their findings to AOPC and to the Magisterial District Judges (MDJ), but he does not know who can enforce or make the recommended changes. Commissioner O'Neal said she brought this issue up because of how inconsistencies appear to constituents. She said this is an issue because, depending on where a person is, the amount that the person is paying for his fines may be different. Chairman Opiela said another issue is he doesn't know if a half-million dollars is enough to ask the legislature for an increase in the CETA fee, even if the half-million dollars could be collected.

Mr. DeFilippi asked to what authority should the Board be looking for understanding how fees should be collected; should not AOPC have a policy for collecting a fee on a certain matter? The 565

MDJs in all 67 counties should be consistent in the collection of fees. Chairman Opiela said that the issue is the *interpretation* of the collection of fees. Constable Contino asked why aren't the constable CETA fees added when warrants are reissued. All of the county fees are added to the new warrant. Chairman Opiela said that that is a question for Ms. Taylor. Chairman Opiela said that, even if this question is answered, he agrees that it is frustrating that some fees are not collected and some are collected unfairly. This is a problem. However, he thought there would still be problems, even if this issue was corrected. Mr. Pfau said that we can show AOPC what the issues are, but their actions depend on what they determine are priorities. Chairman Opiela said that, if one looks at the progression on the spreadsheet, the number of warrants went down in 2009. He wondered if the data is completely correct.

Ms. Leffler said that PCCD can ask AOPC to look into this again. Chairman Opiela would like a spreadsheet of Traffic and Non-Traffic warrants issued for all the counties. Mr. Pfau stated that Mr. Mark Rothermel, Executive Director, AOPC, called after he received PCCD's letter. Mr. Rothermel looked at their data again and said it does not look accurate. He explained that AOPC is pulling data from two different systems. They are transitioning to a new MDJ system. The old system provides data for previous years. Chairman Opiela said that, based on the last two months of contact, AOPC is willing to try to cooperate with PCCD. Chairman Opiela stated that he is on a state committee working on a statewide handbook for constables. If AOPC wants to follow Justice Castille and the legislature's plans, they are going to have to help with either a computer fix and/or better education for the MDJs, so that they understand there is a problem.

Mr. Contino asked, if Ms. Leffler is going to contact AOPC regarding the number of cases with a CETA assessment and number of cases with a server assessments, could she also get the number of cases without a CETA? This would probably be the number of reissued warrants. Chairman Opiela said the warrants that were issued without a CETA fee would show potential, additional income. Ms. Leffler said she could ask AOPC. Chairman Opiela turned the floor back over to Ms. Hartman for the rest of the financial report.

Ms. Hartman continued with the financial report, saying that, under Expenditures and Commitments, the total expenditures as of December 31, 2010, were \$1,551,176.57. There were no Act 233 payments during the quarter. Total expenditures and commitments as of December 31, 2010, were \$10,112,023.33 which included \$275,783.56 in PCCD administrative costs. Total commitments were \$8,560,846.76. The estimated balance of the account as of December 31, 2010, was -\$993,865.16. Ms. Hartman explained that the balance is deceptively low because six new purchase orders totally over \$5 million were created to begin January 1, 2011. But there were also the remainder of six old purchase orders ending December 31, 2010, listed as commitments. The amount of unexpended funds from the six old purchase orders, prior to processing final invoices, was \$2,442,443.14. Once Ms. Hartman pays these final invoices, unexpended funds will be returned to the fund and change the negative number to a positive one.

Chairman Opiela thanked Ms. Hartman for breaking-down the report this way. The balance is distorted because there are contracts that have not been concluded, plus there are new contracts. She explained that there are six contracts ending and six contracts starting-up, which is tying up a lot of funds. Mr. Horst asked Ms. Hartman where she gets the information for the revenue side. She replied that it from the Business Warehouse report, a computer report that she runs. Mr. Horst stated that the report shows commitments for six new contracts for the next two years, but does not show revenue for the same two years.

Chairman Opiela said he received a copy of a letter this week from Mr. Pfau, regarding the Auditor General's office audit of the Constable's Training Account. Periodic audits by the Auditor General are mandated by statute. There were no negative findings during the last audit of the program, conducted in 2006. However, accounting practice was changed from showing commitments on a quarterly basis to showing commitments over the whole life of the contract. Chairman Opiela said he would like the Auditor General to also look at revenues. Mr. Pfau said he would be meeting with representatives from the Auditor General's office on February 14, in order to give them an overview of the training program. Chairman Opiela asked if they could audit the revenue portion of the program. Mr. Pfau said he would ask them.

Chairman Opiela asked Ms. Taylor about investing surplus funds in something like a PennVest. The Constables' Education and Training Account has been non-interest bearing. Ms. Taylor said it would have to be statutorily identified and specific provisions would have to be placed in the statute in order for an interest bearing account to exist. Chairman Opiela asked Ms. Taylor if she knew why this is the case. Ms. Taylor was not sure why, but she thought that, unless otherwise specified, any interest on a restricted account goes into the general fund. This is the general rule. To be different from the general rule, there would have to be specific provisions for the account to keep the interest. Chairman Opiela asked if anyone had ever tried to get this changed.

Ms. Taylor clarified that it is with the License to Carry fund that the interest goes back to the License to Carry fund. Any interest on the Deputy Sheriffs' Account goes back into the general fund for use by the Commonwealth as a whole. Mr. Pfau stated that he is overseeing the License to Carry fund. Chairman Opiela asked why the License to Carry fund works that way. Mr. Pfau said that legislation was already written and handed to PCCD. Constable Contino asked if the Deputy Sheriffs' training is done with tax money. Mr. Pfau said that the Deputy Sheriffs' training program is funded through surcharges, in a manner similar to the Constables' training program. When their surcharge was increased, it went up by increments over several years.

Mr. Pfau said the law governing the Deputy Sheriffs' Training Account is different from the Constables' Training Account. Facing bankruptcy, and after almost two years, legislation governing the Deputy Sheriffs' Training Account was changed. The surcharge was increased, but the legislature inserted language that, at any time, they could take excess funds from the account and transfer them to the general fund. Later, the legislature took about \$2 million from the Deputy Sheriffs' Account. At present, the legislature cannot touch surpluses in the Constables' Training Account. But the same kind of language could be inserted in the constable legislation if the surcharge is increased. The surcharge will surely have to be increased, especially when looking at other legislation for increasing training or other requirements for constables.

Chairman Opiela asked if there were any other comments or questions about the financial report. Constable Sokoloff asked if the first six contracts marked with asterisks were finished. Ms. Hartman said, by the next Board meeting, all of the final invoices for these six contracts should be paid. Chairman Opiela said that he was interested in seeing the auditor's report. Mr. Pfau said the audit will begin in February and expects the audit results will not be ready until the end of 2011.

Chairman Opiela asked how many are trained in the Deputy Sheriff's program. Mr. Pfau stated that there are about 2,200 deputies on a continuing education, two-year cycle. Their basic training is 760 hours and there is also a two-week basic training waiver course. With the two types of basic training, they train about 200-250 deputies a year. Constable Sokoloff said that deputy sheriffs are paid

county employees and that is the big difference. Chairman Opiela asked if there is any value in doing a comparison of the costs of the two kinds of training. Mr. Pfau stated that in 2003-2004, the Board looked at the cost effectiveness of having large, centralized training centers and, at the time, it was more economical to do the training regionalized like it is being done now.

Chairman Opiela asked if there were any staff recommendations regarding actions the Board should take regarding finances. Mr. Pfau stated staff did not have any specific recommendations at this time, but said they are constantly looking at ways to reduce costs to conserve the fund. The 2010 Annual Report has been completed and will be going out after the PCCD Commission meeting in March. In the report, steps aimed at reducing costs are highlighted and there is explanation as to why the fund is low. Chairman Opiela asked for a motion to accept the Financial Report. A motion was made by Constable Harry Walsh. The motion was seconded by Constable Julie Sokoloff. Chairman Opiela called for a vote.

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

VOTING NAY: None

ABSTAINING: None

The motion carried.

Chairman Opiela moved to the next action item on the agenda, the **2011 Board Meeting Schedule**. He indicated that there may be some conflict for the May 19 meeting in Pittsburgh.

Constable Sokoloff indicated that she had a conflict with May 19. Chairman Opiela suggested May 26 in the Pittsburgh area. Chairman Opiela called for a vote.

VOTING AYE for the May 26 date change: Opiela, Contino, DeFilippi, O'Neal, Sokoloff and Walsh

VOTING NAY: None

ABSTAINING: None

The motion carried.

Chairman Opiela asked if there were any problems with the August 4 meeting in Hazleton. No one indicated any problems with this date. The next date was November 17 for a meeting in Harrisburg starting at 10:00am. There were no conflicts with the November 17 date. Constable Contino asked about the Penn State instructor updates in June. Chairman Opiela said the Board is not going to schedule a meeting during the instructor updates, but if a board member wants to attend the updates and there is justification, it is not a problem.

Chairman Opiela moved to the next action item on the agenda, **Board Policy on Non-Constables Attending Basic Training and Board Policy on No-Shows Attending Additional Classes**.

Ms. Sherry Leffler, PCCD staff, indicated that, at the Board meeting on November 18, 2010, the Board voted to implement a policy to continue to allow non-constables to attend basic training classes if they paid to attend, but they would have to submit payment within two weeks of enrollment. After the meeting, PCCD staff discussed implementation of this policy and found significant administrative problems in processing the payments.

In 2010, there was the serious issue of duly-elected or appointed constables not being able to get into basic training because the classes were already full. This was due, in part, to numerous non-

constables who had enrolled in basic training, even though PCCD had scheduled a record number of basic training classes. Furthermore, Ms. Leffler explained that, by allowing a non-constable to attend basic training at a charge of \$617, the Board is not recouping the full amount of money that it costs the program to train that individual. Based on the issues Ms. Leffler identified, staff therefore recommended to the Board a policy of not allowing non-constables to attend basic training, because there is really no benefit to the program by allowing these individuals to attend basic training. Ms. Leffler asked Ms. Taylor to speak on this matter. Ms. Taylor said that it is quite clear that this Board is only required to train elected and appointed constables and deputy constables. Mr. Pfau stated that, in the past, the reason the Board allowed non-constables to attend basic training was because there was space available, and the Board was going out of its way to accommodate individuals seeking the office of constable. Ms. Leffler said there were several individuals who paid to attend basic training in 2010, but have done nothing with their training. Constable Contino asked if any of those individuals had won their primary elections. Ms. Leffler knew only that they were non-constables, but since attending basic training, none of them had secured the office of constable and become certified to perform constable work.

Constable Contino stated that one has to spend money to run for constable. Further, it takes new constables six to seven months to get out on the street and actually make money working as a constable. Mr. Pfau stated that this change would impact only a small percentage of people and the Board is trying to reduce costs. He pointed out that another step taken to reduce costs has been cancelling continuing education classes if they are only half-full. It is one more way of reducing costs while still meeting the training needs of the population.

Ms. Leffler repeated that it is the mission of the Board to train elected and appointed constables. Constable Sokoloff pointed out that the language is already in Title 37, so it will have to be changed. Ms. Leffler agreed and stated that staff is holding other regulation changes, because it is waiting for the Board to approve all changes in order to submit them together. For instance, the elimination of the law enforcement waiver for firearms has been Board policy since 2009, but it is not yet in the regulation. Mr. Horst stated that it is better to submit regulation changes in one packet, all at once, because the process takes at least a year. The Independent Regulatory Review Commission reviews the proposed changes, then it goes to both legislative houses for review, it has to be advertised for public comment, and it can come back at any time for changes.

Mr. Horst stated that the addendum in the Board packet combined both policies into one, Board Policy on Non-Constables Attending Basic Training and Board Policy on No-Shows Attending Additional Classes. Chairman Opiela asked if the Board wanted to vote on these policies independently or as one. He stated that he would rather vote on it as one because he has some questions on the way it was written. Chairman Opiela turned the floor over to Mr. Horst to talk about the **Board Policy on No-Shows Attending Additional Classes**. The policy has been that a person who does not show up for training and attends another class of the same type during the same training year, the individual is responsible for paying for it. The intent of the change is to make this policy extend into the next training year as well.

Mr. Pfau stated that staff is trying to reduce the number of empty seats in training classes. Before the first no-show policy was implemented, the number of no-shows was about 25%. After the policy was implemented, no-shows dropped to 8%. Ms. Leffler stated there were 26 no-shows for basic training in 2010. Chairman Opiela asked if there were any additional questions or changes. Chairman Opiela said he had questions on the way it was written. It says seven days consistently throughout the

proposed regulation change. Does this mean calendar or business days? Mr. Pfau stated that it should read "calendar days" because of the set-up of the Constables Information System (CIS) and because trainings are usually held on weekends. Mr. Horst said staff will insert "calendar" after the "seven" and before "days" consistently throughout the proposed regulation change. Chairman Opiela asked if notification should also be in writing. Ms. Leffler said it could cause issues if written notification is required. Mr. Pfau said this was left open because many times attendees call the coordinator of the school to cancel because of a last minute emergency, short of the seven day window. This allows flexibility. He was concerned about getting too specific in the regulation because unforeseen situations could occur. Chairman Opiela asked if examples of mitigating circumstances would be included in the regulation. He asked Ms. Taylor if examples of mitigating circumstances should be included. Ms. Taylor said there should be some guidance in the regulation. It should not be left entirely to the school's discretion.

Chairman Opiela said that another issue under the proposed regulations changes is that it says "payment must be received within two weeks of class enrollment in the form of a certified check or money order." He asked, "To whom should payment be made?" Mr. Horst replied that payment should be made to PCCD.

Constable Contino questioned the part of the regulation where it states, "and the Board finds that substantial mitigating circumstances do not exist." He said the Board only meets every three months and if someone wants to challenge this, there could be issues. Mr. Pfau said that once this gets put in regulation, there are different ways to handle these situations. The Deputy Sheriff's Education and Training Board (DSETB) has delegated responsibility to the PCCD training program's director to make decisions in certain circumstances; the decision is elevated to the level of PCCD Executive Director in others. The DSETB says some issues must come back to the Board for a decision.

Constable Contino asked if it is written anywhere how much the individuals have to pay for the training. Mr. Pfau said that PCCD publishes the amount that is required for payment. Ms. Leffler said that the Board voted on this amount early in 2010. The fee is the same for all regions.

Mr. Horst summarized the proposed regulation changes by saying that staff will re-draft the regulation changes to add "calendar" and the mitigating circumstances information. Ms. Taylor said to add the wording "if the constable fails to provide timely notice or to show good cause." Chairman Opiela said that this would give guidance to the schools. Ms. Leffler said that staff will also be adding "Payment must be received by PCCD within two weeks." Constable Sokoloff stated that payment must also be by certified check or money order. Mr. Horst asked if "timely notice" should be further defined. Chairman Opiela said that his question about timely notice was if it should include "written timely notice." Since it was suggested that using "written" was not practical, he was okay with this. He then asked if the Board needs to take a vote on these changes. Mr. Pfau said that staff will bring the proposed changes back as one package for a vote.

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

HARRISBURG AREA COMMUNITY COLLEGE

Michael Guido

Requested Subject Certifications:

Management of Aggressive Behavior

TEMPLE UNIVERSITY

Michelle Frei

Requested Subject Certifications:

Court Security

Robert Lembach

Requested Subject Certifications:

Court Security

Dennis Troccola

Requested Subject Certifications:

Court Security

Frank Colantonio

Requested Subject Certifications:

Court Security

INDIANA UNIVERSITY OF PENNSYLVANIA

William Fraley

Requested Subject Certifications:

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

James Fulmer

Requested Subject Certifications:

Role of Constable in the Justice System
Criminal Law and Process
Mechanics of Arrest
Court Security
Expandable Baton

Professional Development
Use of Force
Prisoner Transport and Custody
Crisis Intervention

Mr. Guido, Ms. Frei, Mr. Lembach, Mr. Troccola, and Mr. Colantonio are already certified instructors for the Constables' Training Program. They are requesting the additional certifications listed above. Mr. Fraley and Mr. Fulmer will be new instructors for the program.

Staff recommended certification of each individual for all subjects listed. Ms. Leffler asked if there were any questions from the Board regarding the applications.

Constable Contino asked about the subject, "Role of Constable in the Justice System," and if the two Pennsylvania state troopers were qualified to teach this subject. He asked what this class entails. Mr. Horst stated that it is an introductory, four-hour module about the history of the constable. Ms. Leffler stated that the subject requires general criteria for certification. Constable Contino said that it is important because a lot of individuals get into the job thinking it is a quick way to carry a gun and be a cop, but it is totally different.

Chairman Opiela asked for a motion to approve the seven instructor certifications. Commissioner O'Neal made a motion to approve. Mr. DeFilippi seconded the motion. Chairman Opiela called for a vote.

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

VOTING NAY: None

ABSTAINING: None

The motion carried.

Chairman Opiela passed the next item on the agenda (Discussion Items) and moved to Informational Items.

V. Informational Items

The next item on the agenda was **Status of Certifications Issued**. Ms. Leffler said that before going into the status of certifications, she would like to give the Board an update regarding the new **Board Policy on Attendance at Continuing Education without Current Liability Insurance and Certification**. This policy affected twenty-four individuals who fell in the category of lapsing certification for two years to five years. Of the twenty-four individuals, three were already enrolled in class. They have all received letters stating that they are required to have liability insurance before they are allowed to attend Continuing Education classes.

Mr. Horst stated that we do not have any 2011 statistics yet on the status of certifications. Chairman Opiela said he would like to see the number of individuals who attended Basic Training in 2010 and follow them to see if they keep their certifications. This is important statistical information to have and he would like to follow this group of individuals for a period of three years. Constable Contino

asked staff to provide a breakdown of costs per student for basic training. Staff can average-out the figures and give a statewide average on the costs per constable for basic training.

VI. Discussion Items

Chairman Opiela proceeded to the item that was previously skipped, the **Constables' Legal Reference Guides**. He stated that he wanted to ask Penn State to talk about it. He asked Penn State if there is a way to do the guides on line as opposed to handouts and what the costs would be.

Ted Mellors said the cost depends on what the Board wants to do. Penn State could put the guide on a CD or DVD, depending on how much memory is needed. It could be put on a flash drive, given out at class, then periodically changed. Or it could be put on-line. The constable would have to have access to the Internet. Penn State has the technology to put search options on the CD or DVD.

Mr. Mellors said that these are some of the different options for the reference guide, but the constable would need access to a computer for all of these options.

Mr. Mellors provided an overview of the 2012 Curriculum to the Board. He said that a draft for review should be going to the schools no later than the middle of March. It will give the schools a couple of months for their instructors to review it before the annual updates in June. The 2012 Continuing Education is 20 hours and will include mandatory blocks on Ethics, Cultural Diversity, Use of Force, and Defensive Tactics. There will be some revisions made in the Firearms courses. The Defensive Tactics portion will be changed slightly.

Mr. Kirk Hessler, Penn State-Fayette, provided an overview of the Defensive Tactics and Use of Force modules. He stated there will not be many changes in the basic training and continuing education courses. A Mechanics of Arrest section will be added to the Defensive Tactics Core Capabilities manual. There will also be guidance for instructors remediating a student who does not pass the Defensive Tactics hands-on portion. In the basic training course, Dr. Michael Asken, Pennsylvania State Police psychologist, will do a Use of Force section on stress and memory. In continuing education, a section will be added on knife defense. It will include interviews with two deputy sheriffs in Bucks County who were involved in a stabbing incident. The deputies were attempting to serve a domestic relations civil paper. After answering the door, the individual stabbed them. The interview will focus on the survival mindset and what in their training helped them.

Mr. Hessler said that, for the Use of Force continuing education module, they took Dr. Asken's additions to basic training and added them to continuing education, so that everyone will be getting the same information. In the future, Penn State plans that, when information is updated in basic training, it will be updated in continuing education as well. He asked the Board if there were any questions. Constable Contino asked if the 2012 Continuing Education will be strictly Defensive Tactics. Mr. Mellors pointed out that Defensive Tactics is only one part of continuing education.

Mr. Dennis Glaus, Penn State-Fayette, said that Ethics will be one of the 2012 Continuing Education topics. It will be a four-hour block of instruction. The theme will be ethics and constable accountability, and will give the constable some tools and techniques to use. The last time Ethics was taught was in 2005, and it was called the Use and Abuse of Power. The course will also give information regarding the State Ethics Commission and how it relates to constables.

Mr. Glaus proceeded to discuss firearms training. There will continue to be three types of firearms training: annual, basic, and advanced. Besides the change to the NRA TQ-19 Target, other changes were made to the firearms courses in 2010. The section on selecting duty gear and duty weapons seems to have been helpful. Other additions in 2010 were videos regarding stances and master eye assessments. The Annual Firearms course will still be 20 hours and include a reduced light component and the LaserShot® judgmental shooting system. In the 20-hour Advanced Firearms course, shooting will be at different positions and different targets at fifteen and twenty-five yards. Mr. Glaus asked the Board if there were any questions. Chairman Opiela asked if there has been any difficulty with the new target. Mr. Glaus stated that the numbers have not changed much as far as the number of people who qualified. Also, there were not any issues brought up from instructors about the new target. Constable Contino asked if there was a small increase in the number of failures. Ms. Leffler said she could get that information.

Constable Contino expressed concern that Annual Firearms seems more like a basic firearms course. Mr. Pfau said that the annual course is 20 hours; the basic course is 40 hours. The overall skill set of constables in firearms has improved, but constables continue to need practice on basic gun-handling skills. Mr. Contino stated that he is being taught the same things he was taught 30 years ago. Mr. Pfau stated that these skills are perishable and everyone retains things differently. Advanced courses are offered for those constables who have the skills and ability, but many constables who are eligible to take the advanced course, do not take it. Mr. Mellors said that, from an academic viewpoint, one has to revisit fundamental basics often in dealing with perishable skills.

Constable Contino said that his biggest concern about Continuing Education for 2012 is that it seems to be focused mainly on defensive tactics, use of force, and ethics. It does not go over other things a constable needs to learn, like how to do a civil paper. He said that last year's continuing education was awesome because of the interaction produced by a course that included scenarios and the breaking-down of personalities. Mr. Mellors pointed out that they have a new staff member, Angela Kenes, who has a PhD in instructional design. This year there will be more interaction in the academic courses devoted to Use of Force, Cultural Diversity, and Ethics. Penn State's philosophy is to appeal to different learning styles. Penn State will be adding a student workbook which the students can use to follow along. There will be drills, exercises, group interactions, and small group discussions.

Constable Contino was concerned that defensive tactics is, by nature, focused on criminal behavior. More training is needed to teach constables how to do their jobs. A large number of constables attended basic training last year. This year will be their first year in continuing education. These constables are going to need the most training possible to keep them out of trouble. The eight hours of Defensive Tactics and four hours of Use of Force will teach them how to protect themselves while doing their jobs, but it will not teach them how to do their jobs and what their jobs entail. He said they should be trained in things like service of warrants and executions and transportation of prisoners. Mr. Mellors said that Penn State could put some of that information on line. However, training must be prioritized because there are only 20 hours of training a year.

Mr. Pfau stated that, historically, constables in the western part of the state do more criminal work, whereas constables in the eastern part of the state generally do more civil work. He said ethics is also a very important subject for new constables to learn.

Mr. Pfau also said that the Board must look at training needs from a statewide level, because constable duties vary from county to county. For example, in Fayette County, during the first five or six years of training, constables did criminal work only and they complained that they had to sit through a four-hour module on Civil Law and Process. Constables in the other 65 counties did do civil process. In the 20 hours of training per year, it is hard to meet the diverse training needs of constables in all 66 counties. In certain years, some modules may be more applicable for some counties than in others.

Constable Contino stated that there are three aspects to a constable's job: civil, criminal and transports. Training should be done on these three things constantly, incorporating them into the training modules. Mr. Pfau stated that when civil or criminal is broken down from an instructional standpoint, there are many subsets. For example, the subject of conducting an eviction could be 40 hours long, and still would not be able to touch all aspects of the topic. Constable Contino asked Ms. Taylor that, from a legal standpoint, if a Constable gets into trouble, aren't the authorities going look at what was taught in his training? Mr. Pfau stated that the Board can decide to eliminate perishable skills like Defensive Tactics from the training. He also said that, if time permitted, there could be more integrated training, instead of the training being compartmentalized. Constable Contino said that he only remembers a few continuing education trainings that helped the constable do what he is supposed to do.

Mr. Pfau gave an example of the reason why constables are required to qualify with their weapons every year. It is because, in a situation where you may have to pull your weapon, you have to recall the skills and get it right the first time. It is the same situation with use of force. If a constable uses force incorrectly, it could cost him. Constable Contino said he is frustrated because the training seems to be the same information year-after-year. He stated the whole idea of going to Penn State prior to June's update was to give input to get courses changed, instead of going to Penn State in June when it is too late to make changes. In reality, there should be basic training, six years of the current continuing education type of training, and then a third tier where the training could be fine-tuned.

Teresa Conley, Temple University, suggested the four hours of optional training could be utilized for the types of training that Constable Contino suggested. Then interested constables could attend the optional training. Constable Contino stated that constables will not sign up for optional training because they only want to attend the training required by law. Mr. Mellors cited an optional course, "Use of Force Options under Stress," which was all scenario-based. It was scrapped because of lack of interest.

Chairman Opiela stated that Penn State should have a video library for access on line. PCCD is also working on redesigning the Constable Information System. When constables log-in to the system, they will not only be able to see their training records, they will also be able to look up available past or current curriculum for review. Constable Contino said that curriculum must be in a secure part of the system, not in a location accessible to the public.

Mr. Mellors indicated that the Annual Instructor Updates are going to be held June 8, 9, and 10 in State College. The keynote speaker will be Dr. Michael Asken, who will be speaking on how stress relates to performance and memory in critical incidents. Mr. Mellors gave a general overview of the Instructor Updates and pointed out that there will be a group of Master Firearms Instructors going to the Scotia Range to go over fundamentals, problems on the range, equipment failures, and environmental factors.

Constable Contino asked Mr. Mellors if there would be any more hands-on sections included in the training by June. Mr. Mellors said the CDs will be sent out to the schools in the middle of March, which will give the instructors a few months to look them over and give suggestions at the updates in June. Any changes could be completed by October. Mr. Hessler pointed out that there is a one-hour block for scenarios in the Use of Force continuing education module, so he will add a scenario on doing civil process. Mr. Mellors asked Constable Contino to e-mail him some of his ideas for building more scenarios for training.

VII. Public Comment

Chairman Opiela asked if there were any other comments or questions. Hearing none, Chairman Opiela then called for a motion to adjourn. The next meeting will be in the Pittsburgh area on May 26. A location will be announced.

VIII. Adjournment

Constable Sokoloff made a motion to adjourn.

Chairman Opiela adjourned the meeting at 12:15 p.m.