

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

Approved Minutes of the November 19, 2020 Meeting

Members Present

Francis Peitz Jr., Vice-Chair, Allegheny Co.
Craig Westover, Constable, Venango Co.
John Bruno, Chair, Dauphin Co.
Thomas Brletic, MDJ, Allegheny Co.
George Bivens, PSP

Commission Staff Present

Sherry Leffler, Constables' Program
Tracy Beaver, Constables' Program
Nicholas Hartman, Constables' Program
Sally Berry, PCCD
John Pfau, PCCD
Megan Staub, PCCD
Debra Sandifer, PCCD
Beth Romero, PCCD
Yvonne Murray, PCCD
Michael Pennington, PCCD

Visitors

Michael Marcantino, IUP
Deidre Beiter, Temple University
Anthony Luongo, Temple University
Terry White, York
Laird Cole, Mercer

Todd Rich, Montgomery
Ron Quinn, Centre
Antoine Malloy, Allegheny
Gary Winfrey, York
Sam Vinicur, Montgomery

Please note, additional Constables were attending the Board Meeting, but did not elect to be recognized.

I. Call to Order:

The Constables' Education and Training Board (Board) meeting was held at 9:00 a.m. on Thursday, November 19, 2020 via Skype. The Board Meeting could not be held at the Pennsylvania Commission on Crime and Delinquency (PCCD), 3101 N. Front Street, Harrisburg, Pennsylvania due to meeting restrictions set forth by the Governor to slow the spread of COVID-19.

Ms. Sherry Leffler began the meeting by doing a virtual roll call with the names that were visible in the Skype participant panel. Ms. Leffler then asked the additional callers to identify themselves so that attendance could be recorded. After attendance had been established, Ms. Leffler provided the flow of the meeting, and provided basic housekeeping rules to help ensure the quality of the recorded Board Meeting. Ms. Leffler also explained how items would be introduced, discussed, and how the voting process would occur.

II. Action Items:

Ms. Leffler asked to have a roll call to determine if quorum was available. All five Board Members were present allowing for votes to be made. The Board Members were Francis Peitz, Craig Westover, John Bruno, Thomas Brletic, and George Bivens. Ms. Leffler introduced the PCCD Staff, and their offices.

With quorum being present, an election of officers was able to be held. Ms. Leffler introduced this item explaining that due to not having quorum in the past, an election was not able to occur. Judge Thomas Brletic nominated John Bruno to be Board Chair, this was seconded by Francis Peitz, and was unanimously supported. Judge Thomas Brletic nominated Francis Peitz to be Vice Board Chair, this was seconded by Craig Westover, and was unanimously supported.

Public voice will be held at the end of the Board Meeting for topics that constables have contacted Tracy Beaver to present. Ms. Leffler also explained that Public Voice will also occur after each Action Item, but prior to voting.

Ms. Leffler introduced the first Action Item: Unapproved Draft Minutes of August 13, 2020 Meeting. This can be found on page 2 of the Board packet. Ms. Leffler offered to read the Action Item to the Board. The Board did not request the item be read and did not offer any discussion. There was no comment by Public Voice. Ms. Leffler then asked for a motion to approve the Unapproved Draft Minutes. This motion was made by Chair John Bruno and seconded by Vice Chair Francis Peitz. The motion passed unanimously.

Ms. Leffler introduced the second Action Item: Unapproved Financial Report for November 19, 2020. This can be found on page 7 of the Board packet. Due to technical difficulties, Ms. Murray was unable to provide the fiscal report. Ms. Leffler asked if Ms. Romero would be able to provide the information. Ms. Romero asked for time to review the report to be able to present the information. Ms. Leffler introduced the next topic to provide Ms. Romero time.

Ms. Leffler introduced the third Action Item: 2021 Board Meeting Schedule. This can be found on page 12 of the Board packet. Craig Westover posed the question will training be going totally remote for 2021. Ms. Leffler informed the Board that yes, staff will be tele-working through June 2021, and that PCCD staff will be transitioning from the Skype platform to the Microsoft Teams platform for the Board Meeting for next year. Mr. Westover was asking this as a point of clarification. Constable Ron Quinn (Centre) asked would the new platform information be made available to the public and emailed out to the constable population, and Ms. Leffler replied it would be on the PCCD website and would be sent out to the email addresses contained in CCETS. Constable Greg Smith (Franklin) asked would the link be available for video, and Ms. Leffler explained it is only call in because we do not have the capacity to provide video. Ms. Leffler then asked for a motion to approve the 2021 Board Meeting Schedule. This motion was made by Judge Thomas Brletic and seconded by Chair John Bruno. The motion passed unanimously.

Ms. Leffler introduced the fourth Action Item: Instructor Certification. This can be found on page 13 of the Board packet. Ms. Leffler introduce Bruce Nesbit as the potential instructor for Temple University, and reviewed Mr. Nesbit's credentials of 28 years of police experience, and 26 years of instruction experience. Mr. Nesbit currently instructs in Montgomery County, and is varied in firearm training. PCCD Staff is recommending that the Board approve Mr. Nesbit as a Firearms Instructor for Temple University. The Board did not offer any discussion. There was no comment by Public Voice. Ms. Leffler then asked for a motion to approve the Instructor Certification. This motion was made by Judge Thomas Brletic and seconded by Chair John Bruno. The motion passed unanimously.

Ms. Leffler returned to the fiscal report, and asked Ms. Romero to provide an update, which can be found starting on page 7. Ms. Romero reviewed the balance from the previous year as \$2,161,076.15, reported

that from fee collections for July 1, 2020 thru September 30, 2020 as \$216,188.31 which leaves a total funds available as September 30, 2020 of \$2,377,264.46. Ms. Romero explained that both the financial expenditures and financial commitments totaled \$179,413.05, and \$1,395,154.21 respectfully as of September 30, 2020 for a grand total of \$1,574,570.26. Ms. Romero stated that the uncommitted balance as of September 30, 2020 was \$802,694.20. Ms. Romero stated that the explained fiscal numbers, and break downs could be found on pages 7-11 of the Board packet. The Board did not offer any discussion. There was no comment by Public Voice. Ms. Leffler then asked for a motion to approve the Unapproved Fiscal Report for November 19, 2020. This motion was made by Vice Chair Francis Peitz and seconded by Judge Thomas Brletic. The motion passed unanimously.

Ms. Leffler introduced the fifth Action Item: Act 233 Stipend Payments for Training Year 2020. This can be found on page 14 of the Board packet. The Board asked for a synopsis of this Action Item. Act 233 payments are which under Title 44, and if there is a fund surplus, these funds can be used to assist constables with the costs attending training. PCCD has not provide a training stipend since 2008. PCCD Staff is asking due to the health of the training fund that no training payments be made under Title 44 Section 79.41 F until the fund recovers. Judge Brletic asked if we knew what the stipend payment would amount to for each constable. Ms. Leffler said we did not have the actual figure, but only 310 constables from this training year would be eligible to request the stipend payment. Ms. Leffler did say that in the three years it was provided (2006-2008), it averaged around \$120 per constable. (This includes mileage and tolls.) Judge Brletic asked what the new total would be currently. Mr. John Pfau provided history that if each constable submitted their forms in the past years it was available (2006-2008), it would have cost the program in the \$225,000 range if everyone eligible had applied for the stipend. The average payment those years were \$125,000 according to Mr. Pfau. Judge Brletic is asking what the cost would be to provide this stipend, if it is not exuberant, can this item be tabled, to see what the cost would be in today's dollars before casting a vote. Mr. Pfau said we can provide a cost for the 310 eligible constables using the government cost allocation. Mr. Pfau also explained that those who completed the online training would not be eligible. Judge Brletic asked for this information to be presented to the Board. Ms. Leffler then repeated that the information needed was the cost allocation for the 310 eligible constables who attended in-person training, and this will be presented at the February Board Meeting. Ms. Leffler deferred to Ms. Sandifer is a vote needed to occur to table a motion, and Ms. Sandifer said that the item would be withdrawn from the current agenda.

Ms. Leffler introduced the sixth Action Item: Annual Firearms Regulation Exemption. This can be found on page 15 of the Board packet. Ms. Leffler read the Action Item to the Board, also correcting the error of the cost of the Firearms Course to be \$115, not \$155. PCCD Staff is recommending that the Board approve the Annual Firearms Regulation Exemption. The Board did not offer any discussion. Laird Cole (Mercer) asked if any other constables were found to be in a similar situation. Ms. Leffler explained that Program Staff reviewed information, and that three other constables were in similar situations, however the three other constables had failures in their previous classes which would cause them to need to pay to go to another Firearms Qualifications, and the time lapse occurring past the three years' mark. Gary Winfrey (York) asked why he is not being used as the example, because he said his situation is the same. Ms. Leffler explained that the situation would be similar, however Constable Winfrey was not enrolled into an Annual Firearms Qualification. Ms. Leffler also explained that it was Constable Winfrey's Base Certification that had expired, and that Constable Winfrey needed to complete the four-hour online training to be recertified. Constable Winfrey certification was reinstated in September, but at that time no Annual Firearms Courses were available. Ms. Leffler explained that there was no lapse in Constable

Marcin's certification. This motion was made by Judge Thomas Brletic and seconded by Chair John Bruno. The motion passed unanimously.

III. Discussion Items:

Constable Westover wanted to question the line item discussing rent, and stated the amount associated with the cost. Constable Westover pointed out that we approved the Board meetings as online for the next calendar year, and that PCCD staff is working from home. Constable Westover then asked, do we need to continue to pay rent for space we are unable to use at this time as a Discussion Item to the Board. Constable Westover explained that the money could be used to help stabilize the fund. Mr. Pfau said he understood Constable Westover's question, and provided answers that due to the restrictions of CLEAN, we need to have a secure computer, and that there are functions that staff still need the office to complete, such as ID cards. Mr. Pfau also explained that PCCD leases the building, and that we still have commitments to the building as an agency giving the current circumstances. Constable Westover then explained the frustration of having a place you cannot use and asked if it were possible that that a reduction occur for the cost we need to pay. Constable Westover explained that he was looking at where the agency could create a savings for the budget. Mr. Pfau said that he would need to differ to management regarding a decision, or a commitment. Mr. Pfau also addressed that the costs of the contracts were reduced for this year, and the money from the reduction has been moved into next year. Mr. Pfau also stated that Program Staff is going to show a quarter by quarter comparison of the costs of having training versus not having training regarding the program's spending in minor expenses.

Constable Westover also wanted to discuss the current collection projection, and the deficit that was reported on the fiscal report. Constable Westover then provided a number of over \$440,000 each quarter for the fund to recoup what was lost. Constable Westover then asked if this something that can be revisited when reviewing the projections for the future years. Mr. Pfau agreed with Constable Westover and addressed that we do not know if court work will be delayed in the future, or will there be a spike, or will the received fees be the same.

Constable Westover also wanted to discuss material inventory. Mr. Pfau reminded that the training contract with PSU Fayette was terminated, and with in-person trainings being cancelled this became a moot point. Mr. Pfau, and Ms. Leffler inventoried the materials that PSU-Fayette had, and will be reviewing the materials that need to be surplussed. Any money recovered from the surplussed equipment would go back into the training fund. Mr. Pfau explained we are in the process of hiring a new contractor and have moved to the new vendor. This will be announced to the Board as soon as it can be shared. Constable Westover then requested an itemized list of all the items that were recovered. Constable Westover's concern has been about the amount of ammunition available. Mr. Pfau stated we recovered about 120,000 rounds of ammunition. This ammunition would then be used to cover the Basic Firearms Training Courses. Mr. Pfau also explained certain types of ammunition are being used less, and that it could be surplussed. Constable Westover wanted to ensure that all the items made it through the transition. Mr. Pfau explains how Program Staff review costs, and expenditures. Mr. Pfau, and Ms. Leffler are in the process of reconciling the inventory recovered. In December, Program Staff would be doing a second review of the inventory. Mr. Pfau said a list could be provided to the Board.

IV. Informational Items:

Ms. Megan Staub provided an update regarding changes to curriculum. This can be found on pages 16-18. Ms. Staub discussed updates to Cultural Diversity, Effective Communication, and Ethics. Ms. Staub explained due to low enrollment due to COVID-19, Every Constables Worst Nightmare, and Judgmental Use of Force. Descriptions were read from the Board Packet. Ms. Staub announced that Annual Firearms is moving from a four-hour class to a five-hour class.

Constable Westover asked if the courses would be in-person, or online. Mr. Pfau said that we would plan what we could to be in-person. Mr. Pfau also explained the class sizes may be smaller. This would be observed to see if we can continue with this model. Ms. Leffler explained that 310 constables had completed Every Constables Worst Nightmare, and Judgmental Use of Force, and that Program Staff is in the process of trying to credit the constables who passed these subjects in 2020, so that they do not need to attend again in 2021.

Chair Bruno asked who would be creating the materials for Cultural Diversity. Mr. Pfau explained that Program Staff took materials from the previous iteration and explained that PSU-Fayette also terminated the curriculum development contract. Program Staff were given sections of curriculum and they provided updates to, as to not lose time with the loss of a contractor. Program Staff provided a good starting point for Temple has to update and develop the new version of Cultural Diversity. Mr. Pfau explained the update was necessary because information has changed since the last implementation of the materials in 2012. Chair Bruno voiced his concern that Cultural Diversity is currently a hot topic item, and that we do not have a political agenda attached to it. Mr. Pfau explained that the materials are not political, but more to create an awareness. Mr. Pfau also explained that constables are required to do four hours, while the deputy sheriffs have twelve hours. Mr. Pfau said this is one of the more positively received topics from the deputy sheriffs, and the subject matter expert who is helping to write this subject curriculum is an instructor for the Sheriffs and Deputy Sheriffs Program.

Ms. Leffler provided an oral update that BTS is still in the process of finalizing a contract for the Western Region of the state, and once this has occurred, Program Staff will release this information. Ms. Leffler explained that Temple is still involved with training deliverables and creating curriculum.

Ms. Leffler explained that the central region of the state has been redistributed between the Northwest, Southwest, Northeast, and Southwest regions. Ms. Leffler explained that this will impact training locations due to size, and availability. Ms. Leffler said staff are still working on setting regions in CCETS.

Ms. Leffler explained that the Firearms Certification Extension is still being worked on in the CCETS system. More information will be presented once this is completed.

Ms. Leffler also stated that Program Staff are working on creating the training schedule for 2021. Mr. Pfau explained due to the loss of PSU-Fayette, and acquiring a new training developer, online trainings may not be available until mid to late January. Ms. Leffler said this could also impact the opening of training enrollment.

Ms. Tracy Beaver provided an online training update that could be found on page 20 of the Board packet. Ms. Beaver updated the Board on the number of Keystone Login Migration logins with 1,064 out of 1,181 having registered. Ms. Beaver also provided the number of CANVAS enrollments, 1,181 constables,

number of constables have started the online training hosted by Temple, 791 constables, and provided the total number of constables who have completed the training, 551 constables. Chair Bruno questioned how many constables did not complete the course that is set to expire in December. Mr. Pfau explained that Program Staff is not sure if constables are waiting until the last minute to complete the online training, or constables are retiring. Mr. Pfau explained we do not know how constables many will complete the trainings. Mr. Pfau explained that Program Staff has been active in helping constable to be able to access the training and working with Temple to address login issues. Ms. Leffler also explained that some constables have said that they are not taking the training because once their term expires, these constables plan on retiring. Ms. Leffler updated that we are over 60% completion. Ms. Leffler anticipated that Program Staff will be busy with questions on how to access the training. Chair Bruno asked if Program Staff were entertaining the idea of extending the training by a week, and Ms. Leffler said no. Ms. Leffler is concerned that an extension would push back end of year duties that needed to be completed, and negatively impact the printing of ID cards. The concern that 40% have not started is high, but Mr. Pfau reiterated that Staff had been making multiple attempts at reminding constables to complete the training. Program Staff had also completed outreach by calling out to individuals who needed assistance with accessing the training. Mr. Pfau reminded the Board that this information was available at the beginning of 2020. Ms. Leffler explained that Staff were also reaching out to constables asking to have their updated Code of Conduct completed so that their grade could be entered into the system, or to remind the constable to take the online course. It was explained that without the updated Code of Conduct Program Staff could not certify a constable.

V. Public Voice:

Ms. Leffler then introduced how Public Voice would operate and reminded all in attendance to please limit their comments to two minutes. Ms. Leffler then asked Ms. Beaver to please go thru the list of those who registered to speak during Public Voice.

Ms. Beaver introduced Constable Terry White (York). Constable White filed a Right to Know Request regarding the Law Enforcement Officers Safety Act (LEOSA). Constable White referenced emails from PCCD, and the Manny Rodriguez case. The information stated that PCCD is the training overhead for constables, and not the supervising agency of constables. PCCD is responsible for training constables on judiciary responsibilities. Constable White then questioned the Board, and PCCD as to their opinion that they are not able to be covered under LEOSA; does the Board agree that they are not law enforcement officers in PA; does PCCD believe that the trainings selected are the most relevant to constables; and can emails be sent to constables specific to what they are missing instead of blanket emails. Ms. Leffler reminded Constable White that each constable can access CCETS and see what information/trainings are missing. Ms. Leffler also explained that staff capacity does not permit for specific outreach to occur. Mr. Pfau explained that constables have sent LEOSA forms to PCCD requesting that the form be signed by the last employing agency, and that the employing agency must provide ID/documentation that has met the certification needed to be granted LEOSA. However, Mr. Pfau reminded all that PCCD is not the employing agency for constables, but are responsible for training, and certification. Mr. Pfau explained that Act 147 labelled constables as independent contractors as determined by the Pennsylvania Supreme Court. It was asked if we will take an opinion on who is the employing agency, and Mr. Pfau explained it is not the place of the Board or PCCD to take a position, and that it is between legislators, and the courts. Ms. Sandifer explained that the Board does not appear to have an official position on the question because it does not have anything to do with the constable's education, and training. Constable White then suggested that this be a topic discussed in Continuing Education versus the topics Ms. Staub described

earlier, or what denotes a constable. Constable White then encouraged the constables on the Board to continue this discussion. Constable Westover explained that he has had conversation with firearms instructors who have signed off for individuals under LEOSA and asked about the employing agency. Constable Westover said the firearm instructors viewed constables as their own employer and employing agency. Constable Westover explained that constables need to view PCCD as the training agency for judiciary work as per the General Assembly and reiterated that PCCD cannot certify beyond judiciary work. Constable White said he understood what Constable Westover explained, but still questioned that PCCD, or that the Board will sign off for any constable duties. Constable Westover defended PCCD by stating that LEOSA is not in their realm of their responsibilities. Constable Westover also asked if General Counsel would review the legislature so that a clearer understanding could be provided of the intent of the General Assembly. Constable White explained that LEOSA is a Federal Act and agreed that PCCD is not the employing agency and believes that constables are more attached to the Governor, or the Executive Offices. Ms. Sandifer also explained how the duties assigned are determined under the Act, and how it applies to the Statute, and Ms. Sandifer also clarified that it is about what they do, not everything that they can do. Judge Brletic does not feel it is up to the Board, or PCCD to address LEOSA based on the Act that defines the responsibilities of the two parties. Judge Brletic explained that the law writers would need to clarify the Act. Judge Brletic believes that the only responsibility that PCCD has is to provide the constable training. Ms. Leffler did point out having an official opinion would benefit Program Staff and provide constables with further guidance with LEOSA. Constable Sam Vinicur asked if a response could be crafted that provides information that PCCD/Board cannot make a determination, and who to contact regarding LEOSA.

Constable David McCann (Delaware) thanked Judge Brletic for tabling the stipend discussion and brought up concerns about help to constables regarding training expenses. Constable McCann described his concerns regarding firearms certification and asked if its consideration would be made for firearms certification to occur with police/sheriffs with whom the constables have a working relationships with., when these officers train and certify for firearms courses.

Constable Ron Quinn (Centre) asked if a determination has been decided if constables were viewed as law enforcement officers by PCCD. Ms. Sandifer requested the materials that Constable Quinn referenced in his question regarding law enforcement. Ms. Sandifer also stated that the Board is not in a position to agree to the terms because it is possible that the materials have to do with a specific set of circumstances, and not defining a constable as a law enforcement officer for the purposes of training.

Constable Sam Vinicur (Montgomery) requested that the constables receive help from PCCD with being defined and recognized as who they are defined as. Constable Laird Cole (Mercer) expressed his concern that constables are being viewed in a grey area, and that they miss out from training.

Constable Greg Smith (Franklin) is anticipating that there will be an influx with new constables in the year 2022, and makes the suggestion that to not harm the fund, that the stipend not be given until after the influx occurs.

Constable Gary Winfrey (York) asked for consideration to be able to attend the first Basic Firearms available, and to wave the cost for the course. Ms. Leffler explained the issue was the lapse in the base certification of three years. Ms. Leffler did say the information could be presented to the Board, as well as the Constable's grievance. The Board did request the information.

Constable Peitz praised PCCD staff, and Temple University regarding the training provided this year.

Constable Antione Malloy (Allegheny) asked if new constables must attend the new requirements, and if the surplussed equipment is available for constables to purchase. Mr. Pfau explained that the surplussing needs to go through the Department of General Services as per state rules. Ms. Leffler answered the question regarding Basic Training, and that they would be certified through 2021, but would need to attend in 2021 to be certified in 2022.

Constable Ron Quinn (Centre) asked how he could find additional certified constables. Mr. Pfau answered the question by saying constables can use the Constable Finder on the PCCD website.

Constable Clinton Gilstrap (Butler) asked if the training schedule is not complete, will consideration be given to those who were enrolled but were not able to attend due to COVID. Mr. Pfau explained that the courses are first come, first serve. Ms. Leffler also explained that the payment must occur prior to enrollment. Ms. Leffler also outlined that two Basic Trainings are being planned in 2021.

VI. Adjournment:

Ms. Leffler asked for a motion to adjourn the meeting at 10:51 a.m. A motion was made by Chair John Bruno to adjourn the meeting and the motion was seconded by Judge Thomas Brletic.

VOTING AYE: Peitz, Bruno, Westover, Brletic, Bivens

VOTING NAY: None

ABSTAINING: None

The next Board meeting will be held on February 11, 2021 at 9am via Skype.