

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

Approved Minutes of the February 11, 2021 Meeting

Members Present

Francis Peitz Jr., Constable, Allegheny Co.
Craig Westover, Constable, Venango Co.
John Bruno, Constable, Dauphin Co.
Major George Bivins, PA State Police
Patricia Norwood-Foden, Court Admin,
Chester Co.

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

Members Absent

Honorable Thomas Brletic, Allegheny Co.

Visitors

Michael Marcantino, IUP
Deidre Beiter, Temple University
Anthony Luongo, Temple University
Michael Hammer, Bucks County
Tony Mucha, PSU JASI
Clinton Wakefield, Montgomery County
Chris Savage, Montgomery County
Todd Rich, Montgomery County
Steve Shelow, PSU JASI

David Kneller, Lebanon County
Ron Quinn, Centre County
Shawn Vinson, Lancaster County
Alex Farganis, Lancaster County
Ron Clever, PAFOC County
Terry White, York County
Michael Lewis, Dauphin County

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

I. Call to Order:

The Constables' Education and Training Board (Board) meeting was held at 9:00 a.m. on Thursday, February 11, 2021 via Teams. The Board Meeting could not be held the Pennsylvania Commission on Crime and Delinquency (PCCD), 3101 N. Front Street, Harrisburg, Pennsylvania due to meeting restrictions set forth by the Governor due to COVID-19.

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

II. Action Items:

Chair Bruno introduced the newest Board member, Patricia Norwood-Foden, Court Administrator from Chester County and welcomed her to the Board.

Chair Bruno introduced the first Action Item: Unapproved Draft Minutes of November 19, 2020 Meeting. This can be found on pages 2 through 9 of the Board packet. The Board did not request the item be read and did not offer any discussion. There was no comment by Public Voice. Chair Bruno asked for a motion to approve the Unapproved Draft Minutes. This motion was made by Vice-Chair Francis Peitz and seconded by Constable Craig Westover. The motion passed unanimously.

Chair Bruno introduced the second Action Item: Unapproved Financial Report for February 11, 2021. This can be found on pages 10 through 15 of the Board packet. Ms. Yvonne Murray reviewed the balance from the previous year as \$2,161,076.15, reported that from fee collections for July 1, 2020 thru December 31, 2020 as \$543,798.46 which leaves a total funds available as December 31, 2020 of \$2,704,874.61. Ms. Murray explained that both the financial expenditures and financial commitments totaled \$360,966.60, and \$1,916,731.52 respectfully as of December 31, 2020 for a grand total of \$2,277,698.12. Ms. Murray stated that the uncommitted balance as of December 31, 2020 was \$427,176.49. Ms. Murray stated that the explained fiscal numbers, and break downs could be found on pages 10 through 15 of the Board packet. The Board did not offer any discussion. There was no comment by Public Voice. Chair Bruno then asked for a motion to approve the Unapproved Fiscal Report for February 11, 2021. This motion was made by Constable Westover, and seconded by Vice-Chair Peitz. The motion passed unanimously. Mr. Pfau provided an update regarding Constable Westover's comment about looking at rent cost and explained that Executive Director Pennington is looking into the lease agreement of PCCD. At this time, there is no definitive answer regarding a cost reduction.

Chair Bruno introduced the third Action Item: Act 233 Stipend Payments for Training Year 2020. This can be found on page 16 of the Board packet. Ms. Sherry Leffler, at the request of the Board, reviewed Act 233 Stipend payments, and provided detailed information. Per Management Directive 230.10, there are limitations that staff must follow with determining who is eligible, and what costs are eligible for reimbursement. Further review shows that constables would not be eligible for all cost reimbursements due to not being in an overnight status as defined in Management Directive 230.10. Ms. Leffler then provided that 310 constables would be eligible for the reimbursement at the rate of \$16.00. The estimated total payout would be \$4,960.00. Ms. Leffler explained that this would cause issues with other state agencies due to work involved to process the stipend payments. The 310 constables would also need to file a W-9 form which would need to generate an SAP number in order to be process the stipend payment. Due to staff capacity, and the costs, Staff is requesting that the Board does not approve Act 233 Stipend payments. Constable Westover stated that he is not comfortable spending at this time and feels it can be entertained once the funds are more stable than what they are at this time. Ms. Norwood-Foden then questioned if in the future if payments are able to be approved, is PCCD able to work on streamlining the system now to help with the payment process. Mr. John Pfau reiterated the same concerns that Constable Westover had regarding the health of the Fund. Mr. Pfau also went into detail explaining that our IT Support Staff is used very heavily by not only the Constables' Program, but the Sheriffs and Deputy Sheriffs Program (SDSP), with his focus being on online integration. The IT Support Staff cannot be diverted at this time to assist with the needed upgrades necessary to process these payments. Ms. Leffler explained that this issue is brought up annually as an Action Item. There was no comment by Public

Voice. This motion to approve Staff's recommendation was made by Ms. Norwood-Foden, and seconded by Chair Bruno. The motion passed unanimously.

Chair Bruno introduced the fourth Action Item: Instructor Certifications. This can be found on page 19 of the Board packet. Ms. Beaver was asked to introduce the instructors for Board approval in the Topics listed: James Ellis Jr. (General, Physical Skills), Donald Murdoch (General, Law, Communications, Firearms), Christopher Sharamatew (General, Communications, Physical Skills, Firearms), Alex Farganis (Firearms), and Ray Telnock (Firearms). All of the instructors meet the requirements for Board certification in the associated Topics. There was no comment by Public Voice. This motion to approve the Instructor Certifications was made by Chair Bruno, and seconded by Constable Westover. The motion passed unanimously.

III. Discussion Items:

The first Discussion Item was Training Years Fiscal Comparison. Mr. Pfau had asked Fiscal to create a chart to show the cost differences between the 2019 and 2020 Training Years due to the pandemic related in 2020. The first quarter was not as deeply impacted because the shutdown did not occur until March. Mr. Pfau highlighted that cost difference in the second quarter is larger due cancelling trainings classes. The third, and fourth quarter differences were not able to be provided because the PSU Fayette Training Delivery Contract was still in the process of being rectified. Mr. Pfau believes this has provided us resources to continue planning for the future.

Ms. Leffler introduced this Discussion Item of Constable Gary Winfrey Training Grievance and stated that the information regarding the training grievance had been sent to the Board for their review prior to this meeting. Ms. Leffler asked if the Board had a chance to review the information and if there were any questions. Constable Westover asked if the residency is allowable due to deputies needing to reside in the same voting district. Mr. Pfau explained that the County is the one to determine if they are eligible to serve in the district. Mr. Pfau also explained it is not the job of Program Staff to review eligibility. Constable Westover also explained that he has concerns regarding constables serving areas they do not reside in as a larger issue. Ms. Leffler did review Constable Winfrey's address, and appointment order, during the conversation, and the information did match for the area for him to serve. Constable Westover reaffirmed his approach on what the Board policy is to waive time for Firearms Certification that is clear in the Board's Regulations. Chair Bruno asked if Constable Winfrey is asking for a decision today to which Ms. Leffler replied Yes, so that he could enroll into an upcoming Basic Firearms in April. Vice-Chair Peitz agreed with Constable Westover on concerns with too many exceptions to the Board's Regulations. Chair Bruno made the motion to uphold Program Staffs' decision with Constable Westover seconding the decision. The motion passed unanimously.

The next Discussion Item was Ms. Sandifer's review of the Law Enforcement Officer Safety Act. Ms. Debra Sandifer explained that questions about LEOSA have appeared over the years, and that it appears that people look to the Board for information regarding LEOSA eligibility, and who is the approving body. Ms. Sandifer states that the recent question is can the Board determine that Constables are in fact Law Enforcement Officers, with the Board not being able to make the decision that Constables are Law Enforcement Officers. Ms. Sandifer reiterates that the Act said that the Board was established for the training, and certification of Constables to be able to provide judiciary services. Ms. Sandifer explained that the requirements of LEOSA boils down to two points: definition of a law enforcement officer, and

proof of an aggregate of 10 years of employment of a law officer for a public agency. Ms. Sandifer states the Board is not qualified to do such determination. The Board is not involved in the employment of Constables, meaning they are not in the position to determine that the 10 years of service has occurred. Because constables are independent contractors and not employees of the county, it would be up to the county to determine employment status. LEOSA is also a Federal Act, with the Board being a Commonwealth State entity. Even if, which the legislation does not, the state legislation allowed the Board to make determination constables being law enforcement officers, it is not the case that the Federal entity who approves LEOSA applications would accept it. Ms. Sandifer also explained that when terms are used, and they are not defined, it is best to go back to the entity to get a definition. Ms. Sandier says it is understandable that people come to the Board for information but repeats that the Board is limited to education and training. Ms. Sandifer explained that the Manny Rodriguez has no jurisdiction in Pennsylvania, because it was a New York case. Ms. Sandifer repeated her opening statement that the Board cannot determine the constables are law enforcement officers. Chair Bruno, as an independent constable, and not representing the Board, says he agrees with the intent of LEOSA, but how does this trickle down to constables. Chair Bruno also stated that many people achieve their LEOSA through Pennsylvania State Police. Again, as an independent constable, and not representing the Board, Chair Bruno believes that constables need a controlling definition of what a constable is, and believes this needs to be completed, with supporting legislation. Chair Bruno, as an independent constable and not representing the Board, also stated that constables are not attached to any entity, and when constables are defined as law officers (Chair Bruno's opinion), then they will be able to receive LEOSA through the County Sheriff's Office. Chair Bruno then said that Constables call themselves State Constables but clarifies that they are not State Constables because they are not elected on a state ballot, but of the county in which they reside. Chair Bruno believes that this maybe an area that Constables should look into for their definition. Chair Bruno states that the Board does not have the ability to issue LEOSA to constables.

Ms. Leffler introduced the next topic which was a review of the Equipment Inventory. Mr. Pfau explained that PSU Fayette terminated both the training delivery, and the curriculum development contracts with the Constables' Program. Also, in 2020 PCCD decided not to renew IUP's training delivery contract. Equipment purchases had been made with Program monies, and Mr. Pfau explained that that contractors have equipment inventories that are submitted to Program Staff each September. Mr. Pfau explained that purchases were made due to normal wear and tear. There was lots of equipment that should have been disposed of previously but was not. Any surpluses or disposal equipment will occur through the contractors' university disposal protocol, and any money collected would be returned to the Fund. Mr. Pfau, and Ms. Leffler were able to recover equipment and ammunition from both PSU Fayette, and IUP in November 2020. Mr. Pfau believes that we received Act 120 equipment as well. Program and PSU JASI Staff reviewed the materials to see what was serviceable and what was not, with some equipment being transferred to the SDSP. This included ammunition that was purchased at fair market value to assist. This was done to assist the SDSP through their upcoming firearms trainings. Constable Westover asked where the equipment was located and Mr. Pfau explained most of the equipment went to PSU JASI, with Temple receiving some basic equipment, handcuffs, etc. Mr. Pfau also said we will need to review the equipment sent to Temple under the curriculum development contract to see if it can be surplussed as well. Constable Westover questioned if the Oleoresin Capsicum Aerosol Training (OCAT) equipment will be working correctly with the LaserShot units. Mr. Pfau recognized that the LaserShot equipment is hit or miss. Ms. Beiter answered Constable Westover's question that they are not using the OCAT equipment on the LaserShot. Constable Westover then questioned the Red Man Suits. Mr. Pfau recommends we hold onto the Red Man Suits to see how they are used in the upcoming curriculum. Mr. Pfau said that the Red Man Suits are still serviceable to which, Constable Westover stated that Red Man

Suits are worth a bit of money if surplussed. Constable Westover asked if the inventory list is updated each year, and Mr. Pfau explained that staff will review the purchases, and the schools will provide an updated inventory in September. Constable Westover states that he hopes all items are being used, and not sitting on a shelf.

IV. Informational Items:

Ms. Leffler provided an update on the 2021 Training Schedule. Ms. Leffler said the schedule was opened on January 25, 2021. 922 online enrollments have occurred for Annual Firearms, and Continuing Education. Currently, there are 6 individuals signed up for the Basic Training in the South East region of the state. PCCD staff is currently waiting for required paperwork, such as appointment orders, and Staff is working with individuals who have contacted PCCD asking about Basic Training. The class will begin on Friday March 5, 2021. Mr. Hartman, and Ms. Leffler will be attendance the first evening. A Basic Firearms will be held in April to catch up individuals who were not able to enroll into a Basic Firearms in 2019/2020. We are anticipating more enrollments. Ms. Leffler explained that several training facilities have backed out and has sent communication to the constables that what is in the PDF training schedule may not match the actual location in CCETS. Mr. Mucha has been working on finding replacement facilities. Temple had held their first Continuing Education in February, and it was a success. Temple will be holding an Annual Firearms Qualification in February, and Staff will be in attendance. Chair Bruno asked why last-minute venues as backing out, and Ms. Leffler explained that these venues are not allowing outside entities. Mr. Pfau said that COVID is a large factor with training locations. Ms. Leffler explained that facilities used in the past had to be changed because of COVID.

Ms. Leffler provided the next Informational Item, which was a review of the Training Grievances that had been filed throughout the 2019 and 2020 training years. Ms. Leffler explained that Staff asks for documentation from the Constables, and the training schools. Ms. Leffler explained that No Show grievances have been overturned in the past and a write of these training grievances can be found on page 22 of the Board packet.

Ms. Trac Beaver was asked to present the next informational item, Instructor Transfers. Ms. Beaver explained that the Instructors who are currently Board certified are allowed to be used by Temple, and PSU JASI. The list of instructors can be found on page 23 of the Board packet. Ms. Leffler wanted to recognize that Tony Mucha has been hired as the Constable Training Coordinator for PSU-JASI and is a Board Certified Instructor before being hired by PSU JASI.

Ms. Leffler was asked to present information on the next Informational Item, regarding the Online Training. Ms. Leffler stated that the Board had questions about the online training and provided the following statistics that out of the 1,185 Constables, 1,005 Constables had successfully completed the 4-Hour online training during the 2020 training year. The remaining constables did not complete online training. It was explained that some constables did not complete the training because their insurance was expiring, their term of office was expiring, or they were planning on retiring at the end of the year. Ms. Leffler is anticipating a large class of new constables in 2022. There were 18 first time failures on the 4-Hour online subject, Reacting to Witnessed Criminal Behavior, and five two-time failures, with one individual not submitting their class failure payment in time to be able to take the test again by December 4, 2020. This person is required to do the 20 hours of Continuing Education in 2021. Staff is also in the process of receiving the Code of Conducts from Constables who needed to sign a new form. After the

document has been received, Program Staff will be able to process their grades in CCETS and create their training period.

Status of Certifications –

Ms. Beaver was providing the final Informational Update. Status of Certifications. Ms. Beaver stated that as of January 27, 2021 that there are 964 Constables that are active and certified with current insurance. Of the 964, 789 are certified to carry firearms. Since the inception of the Constables Education Training Program in 1996, 4,634 constables have successfully completed Basic Training, or passed the waiver exam.

V. Public Voice:

Constable Westover wanted to discuss the Act 49 COVID Screening Form and would like to add a question to ask if they are vaccinated, as there is still concerns about exposure to the COVID virus. Mr. Pfau thinks the question is a good question to add and reiterated that the form came from the SDSP and that it should be a yes/no question. Chair Bruno said if we ask Constables if they are inoculated, we should ask yes/no/did not answer due to HIPAA.

Ms. Beaver introduced Constable Terry White (York). Terry White asked what is the Board's stance of Section 7148, Use of Firearms, emphasizing key duties. Constable White said that the LEOSA analysis focused on retired Constables. Mr. Pfau says the Act does say any duties, and when the Firearms Training Program was created the Act was not merged in with all of the other Constable Statues. Mr. Pfau explained the Board looked at the four categories that the Act specified training. Further explanation that the Board took the approach that Constables were being certified to carry a firearm in court related duties. The trainings provided focus on the court related duties when discussing a firearm. Chair Bruno, as an independent constable and not representing the CETB Board, said he believes constables are law enforcement officers. Chair Bruno stated that the issue again is the definition of what a constable is. Chair Bruno also reiterated that the problem with LEOSA is that constables are independent contractors. Chair Bruno recognizes that the change would need to occur on the Federal level.

Ms. Beaver introduced Constable Ron Quinn (Centre). Constable Quinn questioned Ms. Sandifer to provide the Statute that was used to define that Constable are not law enforcement officers. Ms. Sandifer repeated that the Board does not have the power to state that Constables are law enforcement officers, nor to state that they are not law enforcement officers. Ms. Sandifer repeated that there was nothing that was said in her explanation that said Constables are not law enforcement officers. Ms. Sandifer's comments were regarding if the Board has the power to decree that they are law enforcement officers, and it does not. Ms. Sandifer repeated that the Board does not have the power to decree that they are law enforcement officers. Ms. Sandifer repeated that the Board is about training and certification. Ms. Sandifer's point is saying that the Board does not have the power to do so. Chair Bruno further explained that the Board does not have the power. Constable Quinn wanted to address the frustration of regarding the classification of what a Constable is, and his frustrations regarding being told he is not considered a law enforcement officer. Chair Bruno, as an independent constable and not representing the CETB Board, asked Constable Quinn if he viewed himself as a law enforcement officer, and Constable Quinn said yes. Chair Bruno, as an independent constable and not representing the CETB Board, said he agreed. Chair Bruno reiterated that the issue is the definition of what a Constable is and needs to be presented to the Legislature. When Chair Bruno asked Mr. Pfau for clarification, Mr. Pfau said that the constables need a legislative

definition which would solve many of the issues regarding constables. Mr. Pfau also explained it is not the role of PCCD, or the Board to obtain the definition of a constable. Mr. Pfau explained the Special Court Judges Commission wants a definition of what a constable is, to help complete their work. Constable Quinn asks that in training when the question asked about being law enforcement officers, that a neutral answer be provided. Chair Bruno, as an independent constable and not representing the CETB Board, asked fellow Constables if a committee could be created to create a definition. Constable David Kneller provided court cases to begin using for research. Major George Bivins reiterated that it will take a legislative fix, and that the Board does not have the power to say that they are law enforcement officers. Mr. Pfau suggested that they reach out to Special Court Judges Commission to work on a definition.

Ron Clever (PAFOC) then expressed his concerns about PCCD saying that Constables are not police officers. Mr. Clever referenced various cases. Constable Kneller agreed with Mr. Clever.

Constable Kneller (Lebanon provided information of a news article regarding Constables have not been paid by Magisterial Courts. Constable Kneller's concerns about Constables not being paid, and that new Constables need to know this information. Constable Kneller said that there are Constables who were illegally appointed and trained by the Program. Constable Kneller wants those individuals to pay monies back the Board. Mr. Pfau reiterated that this goes back to the County to check residency. Constable Kneller's concern is about PCCD footing the bill for training and that PCCD needs to be paid back.

VI. Adjournment:

Chair Bruno asked for a motion to adjourn the meeting at 10:59 a.m. A motion was made by Constable Westover to adjourn the meeting and the motion was second by Vice-Chair Peitz.

VOTING AYE: Peitz, Bruno, Westover, Norwood-Foden, Bivins

VOTING NAY: None

ABSTAINING: None

The next Board meeting will be held on May 6, 2021 at 9am via Teams.