

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

Minutes of the May 15, 2014 Meeting

Members Present

Fred Contino, Constable, Delaware County
A.R. DeFilippi, Court Administrator, Beaver Co.
Honorable William Wenner, MDJ, Dauphin Co.
Rodney Ruddock, Commissioner- Indiana County
Harry Walsh, Constable, Allegheny County
Julie Sokoloff, Constable, Montgomery Co

Commission Staff Present

John Pfau, Manager, Bureau of Training Services
Sherry Leffler, Bureau of Training Services
Robert Merwine, Director, OCJSI
Norma Hartman, OFMA
Wayne Hower, Bureau of Training Services
Steve Turner Esq., Attorney PCCD
Kathy Clarke, Bureau of Training Services

Members Absent

Major Adam Kisthardt, PA State Police

Visitors

Mike Marcantino, Indiana University
Anthony Luongo, Temple University
Van Scott Sr, Temple University
Todd Brothers, Penn State Fayette
Paul Pape, Constable Jefferson County
Terry Morgan, Constable, Clearfield County
Deb Williams, PCCD

Barry C. Betz, Constable, Lehigh County
J. Lieto, Constable, Bedford County
Craig England, Constable, Blair County
Ron Quinn, PAFOC
John A Pisano, Jr. Constable, Indiana County
Jennifer McConnell, PCCD

I. Call to Order

The Constables' Education and Training Board meeting was held at 10:00 a.m. on Thursday, May 15, 2014, at the Pennsylvania Commission on Crime and Delinquency (PCCD), 3101 N. Front Street, Harrisburg, Pennsylvania.

Chairman Fred Contino called the meeting to order at 10:05 a.m. and asked all to join him in the Pledge of Allegiance. Board and staff introductions were then made to audience members.

II. Action Items

Chairman Contino moved to the first action item on the agenda, **Minutes of the February 20, 2014 Meeting**, pages 1-7 of the Board packet.

Commissioner Rodney Ruddock made a motion to accept the meeting minutes from the February 20, 2014 meeting. Judge William Wenner seconded the motion.

Roll Call vote:

VOTING AYE: Contino, DeFilippi, Sokoloff, Wenner, Ruddock, Walsh

VOTING NAY: None
ABSTAINING: None

The motion carried unanimously.

Chairman Fred Contino moved to the second action item on the agenda, **Financial Report for May 15, 2014**. Ms. Norma Hartman said the fiscal report beginning on page eight is for the third quarter of the 2013-14 SFY that ended March 31, 2014. Under Receipts, the balance carried forward from the 2012-13 SFY was \$5,951,535.86. The fees collected during the third quarter were \$446,419.23. The total funds available as of March 31, 2014 were \$7,956,176.86. Under Expenditures & Commitments, the total expenditures as of March 31, 2014 were \$2,290,516.78. The Total Expenditures & Commitments as of March 31, 2014 were \$5,566,063.60 which includes \$1,094,575.11 of Administrative Expenditures & Commitments. The actual account balance as of March 31, 2014 was \$2,390,113.26. Ms. Hartman asked if there are any questions.

A.R. DeFilippi made a motion to accept the financial report for May 15, 2014. Constable Harry Walsh seconded the motion.

VOTING AYE: Contino, DeFilippi, Sokoloff, Wenner, Ruddock, and Walsh.
VOTING NAY: None
ABSTAINING: None

The motion carried unanimously.

Chairman Contino moved to the next action item on the agenda, **Instructor Certifications**. Ms. Kathy Clarke, PCCD staff, reviewed the applications and gave staff recommendations, as follows:

Penn State Fayette:

Todd Sherle

Topic Certifications:
Firearms

Temple University:

James Coughlin

Topic Certifications:
General

Garret Field

Topic Certifications:
General
Firearms

Robert Halal

Topic Certifications:
General Topics
Law

Constable Walsh made a motion to accept the Instructors Certifications. Commissioner Ruddock seconded the motion.

VOTING AYE: Contino, DeFilippi, Sokoloff, Wenner, Ruddock, and Walsh.

VOTING NAY: None

ABSTAINING: None

The motion carried unanimously.

III. Discussion Items

Joint State Government Commission's Study Recommendations

Mr. John Pfau reported that last year House Resolution 138 directed the Joint Government Commission to conduct a study on the Constable System. The Study was released the end of April, was sent to the Legislature and is available on the Joint Government Commission's website. The Joint State Government Commission made a lot of recommendations. The Study recommended wording for legislation on how the statutes should be changed and how they should be worded. The Study reinforced a lot of the Supreme Court Rules that came into effect last year allowing counties to have a Constables Review Board and also recommend a state-level board that would establish standardized procedures that the counties and constables would have to follow. It would hear any disputes between county and constables. The Study specifically mentions fees and other issues so if a County Review Board would make any kind of decision, a constable could appeal it to the state-level board. If the County doesn't have a board then the constable or County would go to the State Board. The Study's recommendation is the State Board would be housed within PCCD which would be separate from the Training Board.

In addition, the Study recommended an increase in most of the fees for Constables. It was also recommended that the training surcharge be increased to \$9.00. This would be the first increase of the training surcharge in 20 years. The Study made specific changes to some of the existing statutes that reference a Constable in a borough or ward but does not mention township or vice versa. It basically eliminated all of that language and says a Constable is a Constable and it doesn't matter if a borough, ward or township. It is also recommended that some of the old statutes that still remain, such as a Constable being able to impound trespassing livestock, to be eliminated and repealed. It also addresses the warrantless arrest issue that has been the source of many court cases. It redefined that a Constable who is serving process for the Courts must be clearly identified as a Constable. If the Constable has probable cause and the conduct of the person is threatening the Constable or others, then the Constable could make a warrantless arrest. This allows the Constable the ability to take action when necessary and curtails other Constables from exceeding their legal authority.

The next step is for the Legislature to take action on the Joint State Commission's Study. There will be a link put on the PCCD website and it can also be viewed on the Joint Government Commission's website. Constable Contino mentioned these are only recommendations and in the past, there were Senate Committees that when any kind of bills pass through, they would talk to different organizations. Eventually, there could be Legislation that addresses these issues. Constable Contino said that individual organizations out there will have to get involved because if they don't, then people who don't know anything about Constables will make these decisions.

Mr. Pfau said the Joint State Government Commission's Study did a very good job in bringing forth the recommendations. They talked to Court Administrators, Judges, PCCD and constable organizations. They recommend the Basic Training change in the Statute from no more than 80 hours to between 80 and 100 hours. This would allow the Board some flexibility. The last job task analysis which was done in 2007 recommended the increase in the Basic Training hours to between 125 and 130 hours. This might be the only time that the training act gets open to increase training hours.

There is an appendix in the Study that compares the training hours for everyone who carries a weapon, is sworn and has arrest authority. The Constables' Training hours are among the lowest number of training hours required in the list. Deputy Game Wardens, who are volunteers and part-timers, receive 180 hours of basic training and then they are required to do an additional 40 hours on the job training before they can perform their official duties. If the Board were to increase the training hours to 130 hours, it would still be one of the smallest numbers of hours required for basic training.

Constable Contino said the majority of people that go to training get paid. When someone gets hired as a municipal police officer, they are a salaried township officer when they attend school. There are some discrepancies because officers get paid, but Constables do not get paid to attend training. Mr. Pfau said he has said this all along. He understands the issue that Constables are putting the time in up front and are not getting paid, which is a very big issue. However, it is also a huge investment for decreasing liability. The insurance companies look at the number of hours other officers who are sworn and have the authority to make arrests and compare that with the number of firearms hours Constables are required to have. At some point liability becomes a major factor. The Board has a duty to train constables as best they can, but are limited to statute. As a training entity, there is certain liability, so training needs to be the best that it can be with the hours that are allowed. Constable Contino indicated he strongly agrees that Basic Training needs to be increased, but if Basic Training gets increased then what would happen with Continuing Education.

Constable Ron Quinn asked Constable Contino what organizations constables should make the recommendations to and by what date. Constable Contino said he is recommending that you start writing things down now. He doesn't know when this is going to come but it might be a good idea to be prepared for when it does because these decisions will determine where the system is going. The last one they did was over 30 years ago. Constable Contino said that constables should meet with their organizations and the organizations should be tracking what legislation is coming up. The Legislature should be getting in contact with the organizations because they know what associations are out there. Mr. Pfau indicated that there are footnotes in the Study where various constables and associations were referenced. There are no links on the website but the footnotes they will tell you what associations they talked to. Constable Quinn should get into contact with his local Legislator and once there are bills being sponsored and signed, they are the people moving those pieces of legislation forward. The sooner those discussions are started, the better. Commissioner Ruddock was thinking of the same question that was asked by Constable Quinn and was wondering who was going to take the lead on this. On the inside of the front cover of the Study, there is an email address listed and he wondered if this could that be a starting point? Mr. Pfau indicated that at this point, the study is finished and has been sent it to the Legislature. It is really now in the hands of the Legislature to get moving and take some kind of action.

IV. Informational Items

Board Regulation Update

Ms. Leffler said the Board Regulations have been approved. They have been published in the Pennsylvania Bulletin and there is a link out on the Constables Section of PCCD's website. She wanted to invite all the Board members to the Annual Instructor Updates on June 18-19, 2014 at the Penn State in State College. There will be two sessions for all the Firearms Instructors.

Ms. Leffler further stated that there are significant changes being made to the PCCD's website. The new PCCD website will be going live on May 16, 2014. Ms. Leffler also indicated that another big initiative staff has been working on is the Constables' Certification Education and Training System (CCETS). CCETS will be available on June 23, 2014. There will be details on the website for the registration process. There will be a WebEx recording to show how to register on the system. Everyone will need a unique user id and password to gain access to the system. Constables will no longer use their last name, certification number and the last four digits of your social security number. These changes were made because there are individuals who give out their certification number, last name and the last four digits of their social security number and have other individuals register them in classes. So having a unique user id and password will hopefully help with constables logging in as themselves and accessing their own personal information rather than giving their information out. It is also part of the terms of use of the system that user ids and passwords are not given out to others. PCCD can deny access to the system if someone agrees to the terms of use and then provides someone else their login information.

The Clerks of Court offices will also be accessing the system and will be able to input the Constables' terms of office, liability insurances and also bond information and other information pertaining to Constables. It is still the Constable's responsibility to make sure that the Clerks of Court has a copy of their election certificate, appointment orders and liability insurance in a timely manner. Not all counties are provided with Constables term of office or the appointment paperwork, so if a Constable is appointing a deputy, the constable will need to ensure that paperwork is coming into either the PCCD office or your Clerks of Court office.

The availability dates for CCETS for the counties will be staggered. The Eastern counties will go live on June 23 and the following Monday, June 30, it will be the Central counties. The next Monday, July 7, the Western counties' Clerks of Court will have access. Constable Contino asked if all of the Clerks of Court offices in all the counties currently file the insurance forms and said constables can get the forms time stamped. Ms. Leffler indicated they either fax it in or mail it to PCCD. Constables can check online to see if their insurance information was received by PCCD from the County. The new system will be the same way where they can check online to see if PCCD has their updated liability insurance policy. Ms. Leffler also indicated that PCCD is going to use December 31 as the date for the end of the six-year term.

Status of Certifications Issued

Ms. Leffler said that as of April 17, 2014, there were 1,208 constables and deputy constables currently listed as being active and certified. Of these, 932 or 77% were also certified to carry a firearm during the performance of their constable duties. Since the inception of the Constables' Training Program in 1996, there have been a total of 4,027 individuals who successfully completed basic training or the waiver examination and were certified by the Board.

Constable Jim Lieto asked if someone who is not certified to carry a firearm and did not qualify until the end of this year, after that point of time, are they not allowed to transport a prisoner unless an armed Constable is with them. Is there a resolution that a President Judge can waive that? Ms. Leffler said that is something that he would need to talk about with his County Court Administrator or his County President Judge. Mr. Pfau said when the Supreme Court put that out; they did change the judicial rules of administration. There are two rules that say the President Judge and the Court Administrator must establish local policies and procedures to enforce these things. Constable Lieto asked if it permissible for the President Judge to allow a person who is not firearm certified to transport a prisoner. Mr. Pfau said that is between the County and the Supreme Court. Constable Contino stated that the Act does not mandate a Constable has to carry a weapon.

V. Executive Session

At 10:45 a.m., Chairman Contino requested that an Executive Session be held. Chairman Contino asked PCCD Staff and the Board Members to remain in the room but asked the audience members to leave the room.

The meeting was called back into session at 11:08 a.m.

VI. Public Voice

Constable Craig England said one of the issues constables brought up last week at their County meeting centered around the possibility of taking online training. They would like the Board to consider this as a possible option. Mr. Pfau said six to seven years ago, the Board took a look at that and did an assessment of what it would cost and what would be involved to implement the online training. Ms. Leffler said PCCD never had a mechanism in place where it could be verified that you were actually the one who was taking the test with the online training. Now with the new CCETS coming in play, there will be a unique user id and password assigned, so we can ensure that it is you that would be going online and taking the course/test.

Constable Jim Lieto asked if any consideration had been made to adding first aid training in regards to the curriculum. Mr. Pfau indicated that historically this has come up but because of the time constraints on the basic training as well as the continuing education continuing it was never provided. Mr. Pfau indicated that CPR and first aid training is readily available through local fire departments, police departments, ambulance companies or the American Red Cross.

Constable Quinn asked that with the new CCETS coming live on June 23, 2014, what would be the problem with PCCD keeping records or certifications for all constables? The constable could scan the certification into the system and PCCD would have records for all of the trainings. Ms. Leffler indicated PCCD doesn't want to be the guardian for all Constable certifications. The training program is only concerned with the training the program provides to the Constables.

Constable Lieto addressed the Board and wanted to know when the last time the Constables fees were updated. Mr. Pfau indicated 2006 was when the increases went into effect. Constable Lieto advised that something is happening in the Court Administrator's office relative to the fees that constables are allowed to receive. Constable Contino said there are no ramifications if a County doesn't want to pay those fees. The issue comes down to the Court Administrator's office and the fact that the office staff in the Court Administrator's office sometimes removes the constable's name from the warrant when it is returned.

Constable Contino said he showed them a ruling where a President Judge said a Constable is entitled to his fees once he puts a stamp or leaves a card on it. Constable Contino said he told them to show him where in the law it says he relinquishes his fees. The major issue is that AOPC will not deal with Constables and the Board cannot get involved with AOPC in order to obtain an interpretation of the law.

Constable Lieto also expressed concern to the Board relative to the defensive tactics curriculum taught at the Continuing Education classes. He expressed concern over the amount of techniques being taught. Mr. Pfau said that regarding DT, constables only have training for eight hours and they are being taught perishable skills. Most constables do not practice the techniques outside the training class. The training program published the DT manual for constables so they can look at the manual on their own time and practice the techniques they feel comfortable with. The feedback that was received from the instructors was that the curriculum was too regimented. Also, the instructors have the flexibility with the skill set and the participation of the class to teach more or teach less. They still meet the training objectives, so sometimes what is taught in every class isn't going to be exactly the same every time.

VII. Adjournment

Commissioner DeFilippi made a motion to adjourn the meeting and Constable Sokoloff seconded the motion. The motion carried unanimously. Chairman Contino adjourned the meeting at 11:28 a.m. The next Board meeting will be held on August 14, 2014 at the PCCD office in Harrisburg.