

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

Minutes of the August 11, 2016 Meeting

Members Present

Major Adam Kisthardt, PA State Police
Rodney Ruddock, Indiana County Commissioners
Honorable William Wenner, MDJ, Dauphin Co.
Julie Sokoloff, Constable, Montgomery Co.

Commission Staff Present

Sherry Leffler, Constables' Program
Tracy Clouser, Constables' Program
Wayne Hower, Constables' Program
Robert Merwine, PCCD
John Pfau, PCCD
Debra Sandifer, PCCD
Robert Irving, PCCD

Visitors

Jeff Watson, IUP
Deidre Beiter, Temple University
Todd Brothers, Penn State Fayette
Ronald Quinn, PAFOC
Ted Mellors, Penn state Fayette
Deb Williams, PCCD

Steve Wilson, Constable, Dauphin County
Shawn Vinson, Lancaster County
Anthony Luongo, Temple University
Harry Staub, York County
Antione Malloy, Allegheny County
David Wright, Lancaster County

I. Call to Order:

The Constables' Education and Training Board meeting was held at 10:00 a.m. on Thursday, August 11, 2016 at the Pennsylvania Commission on Crime and Delinquency (PCCD), 3101 N. Front Street, Harrisburg, Pennsylvania.

Board Vice-Chairman Major Adam Kisthardt called the meeting to order at 10:00 a.m. and asked all to join him in the Pledge of Allegiance. Board and staff introductions were then made to audience members. Due to Chairman Contino being indisposed, Vice-Chairman Kisthardt will be running the meeting.

II. Action Items:

Vice-Chairman Kisthardt asked if there were any questions regarding the February 11, 2016 Board meeting minutes. Hearing none he asked for a motion to approve the February 11, 2016 Board meeting minutes.

A motion was made by Commissioner Rodney Ruddock to accept the Board Meeting Minutes of February 11, 2016 and the motion was seconded by Honorable William Wenner.

VOTING AYE: Ruddock, Kisthardt, Sokoloff, Wenner

VOTING NAY: None

ABSTAINING: None

The motion carried unanimously.

Vice-Chairman Kisthardt asked if there were any questions regarding the June 2, 2016 Board meeting minutes. Hearing none he asked for a motion to approve the June 2, 2016 Board meeting minutes.

A motion was made by Julie Sokoloff to accept the Board Meeting Minutes of June 2, 2016 and the motion was Seconded Commissioner Rodney Ruddock.

VOTING AYE: Ruddock, Kisthardt, Sokoloff, Wenner

VOTING NAY: None

ABSTAINING: None

The motion carried unanimously.

The next Action Item on the Agenda was the Financial Report of June 2, 2016, read by Robert Irving. The Financial Report can be found on pages 14-19 of the Board Packet and is for State Fiscal Year (SFY) 2015 – 2016. Under receipts, the balance carried forward from the previous SFY was \$4,306,832.78. The fees collected for the third quarter were \$408,115.33. The total funds available as of March 31, 2016 were \$6,148,468.78. Under Expenditures and Commitments, the total cumulative expenditures as of March 31, 2016 were \$1,639,397.56. The total cumulative expenditures and commitments as of March 31, 2016 were \$8,423,156.14 and that includes \$512,117.31 of the Administrative Expenditures and Commitments. The total of uncommitted funds as of March 31, 2016 is (\$2,274,687.36).

Vice-Chairman Kisthardt asked if there were any questions regarding the June 2, 2016 Financial Report. Hearing none he asked for a motion to approve the June 2, 2016 Financial Report.

A motion was made by Honorable William Wenner to accept the Financial Report of June 2, 2016 and the motion was seconded by Julie Sokoloff.

VOTING AYE: Ruddock, Kisthardt, Sokoloff, Wenner

VOTING NAY: None

ABSTAINING: None

The motion carried unanimously.

The next Financial Action Item on the Agenda was the Financial Report of August 11, 2016, read by Robert Irving. The Fiscal Report found on pages 15-19 are for the fourth quarter of the 2015-2016 SFY that ended June 30, 2016. Under receipts, the balance carried forward for the previous SFY was \$4,306,832.78. The fees collected for the fourth quarter was \$500,476.05 found on page 18. The total funds available as of June 30, 2016 were \$6,136,572.02. Under the Expenditures and Commitments, the total cumulative expenditures as of June 30, 2016 were \$2,757,952.31. The total cumulative expenditures and commitments as of June 30, 2016 were \$8,586,155.31. That includes \$795,363.52 of Administrative Expenditures and Commitments and the breakdown of these costs can be found on page 17. The total of uncommitted funds as of June 30, 2016 is (\$2,499,583.29). The negative balance is due to the commitment of remaining funds in three education training delivery contracts through December 2017, without being able to count future collections against the total.

The actual carry forward balance on July 1, 2016 for the 16-17 state fiscal year is \$3,378,619.71. This carry forward balance includes both the uncommitted balance as of June 30, 2016 of (\$2,449,583.29) plus commitments of \$5,828,203.00. Liquidation of \$120,247.04 on April 12, 2016 for Temple Education and

Training Purchase Order is reflected on page 16. This year, Temple caught up on the prior year invoices. Temple submitted 14 invoices in 15-16 state fiscal year versus 2 invoices in 14-15. As a result, this created a raise of \$664,909.38 of more expenditures for 15-16 state fiscal year even though many of these bills were for 14-15.

Mr. Pfau indicated Temple brought on a fiscal person who did an outstanding job of getting caught up on the past invoices and was getting close to being on track. She has now moved on to a different position, so now Temple has to hire a new financial person.

Major Kisthardt asked for specification on the \$3 million plus going forward. Mr. Irving advised the start point for the next quarter and next year's budget will be the \$3 million and additional receipts on top of that. The \$3 million is what carries forward against the negative \$2 million.

Vice-Chairman Kisthardt asked if there were any questions regarding the August 11, 2016 Financial Report. Hearing none he asked for a motion to approve the August 11, 2016 Financial Report.

A motion was made by Honorable William Wenner to accept the Financial Report of August 11, 2016 and the motion was seconded by Julie Sokoloff.

VOTING AYE: Ruddock, Kisthardt, Sokoloff, Wenner

VOTING NAY: None

ABSTAINING: None

The motion carried unanimously.

The next Action Item is the acceptable Instructor Law Enforcement Certification Programs. In the past the Board had recognized different certification programs for instructors, which staff use to guide us for the qualifications for an instructor to be certified by the Board. Mrs. Leffler indicated an instructor came to us and he did not have one of the acceptable certification programs for firearms certification. He did have the Probation and Parole Firearms Instructor Course certification. Staff reviewed a copy of the Probation and Parole Firearms Instructor course in great detail and feel it is an acceptable certification program for instructors. Basically, we are asking the Board to vote to include the Pennsylvania Probation and Parole Board's Firearms Instructor Course as an acceptable law enforcement firearms instructor program that we would then add to the instructor application.

Major Kisthardt did take a look at the Program and it makes sense, as it is a professional agency.

Vice-Chairman Kisthardt asked if there were any questions regarding the Pennsylvania Probation and Parole Board's Firearms Instructor Course. Hearing none he asked for a motion to approve the Pennsylvania Probation and Parole Board's Firearms Instructor Course to be added to the instructor application.

A motion was made by Commissioner Rodney Ruddock to accept the Probation and Parole Firearms Instructor Course as an acceptable law enforcement firearms instructor program and the motion was seconded by Honorable William Wenner.

VOTING AYE: Ruddock, Kisthardt, Sokoloff, Wenner

VOTING NAY: None

ABSTAINING: None

The next Action Item on the agenda was a review of the instructor certifications by Mr. Wayne Hower. He reviewed the applications and gave staff recommendations as follows:

Indiana University of Pennsylvania:

Christopher Galetti:

Requested Topic Certifications: Firearms

Bryan Sampsel:

Requested Topic Certifications: Firearms

Penn State Fayette:

Mark King:

Requested Topic Certifications: Firearms, Chemical Aerosol (OCAT), Expandable Baton (Manodnock)

Anthony Mucha Jr.

Requested Topic Certifications: Communication (MOAB)

Temple University:

Charles Horvath:

Requested Topic Certifications: General, Firearms

Matthew Pokorny:

Requested Topic Certifications: General, Firearms

Commissioner Ruddock asked about if there was anything received in writing in support of these candidates towards the positions they have. Mr. Pfau did advise one of the first things staff do is to go through and validate the certifications. If the certification is expired, they go back to the school to obtain the information. Major Kisthardt asked if under the occupation, the staff could put in the instructor's position with the entity. Sometimes it is done and other times it is not.

Program Staff recommended Board certification for each instructor for the topics listed above.

Vice-Chairman Kisthardt asked if there were any questions regarding the above instructor certifications. Hearing none he asked for a motion to approve the instructors.

A motion was made by Commissioner Rodney Ruddock to accept the candidates for Instructor Certifications and the motion was seconded by Honorable William Wenner.

VOTING AYE: Ruddock, Kisthardt, Sokoloff, Wenner

VOTING NAY: None

ABSTAINING: None

The motion carried unanimously.

Mrs. Leffler advised of an informational item regarding instructors, because we did not have a quorum in the June meeting and there was a need for firearm instructors, Mr. Pfau, the manager of Bureau of

Training Services, gave conditional approval, which he is able to grant through the Act 49 Instructor Policy, for both Charles Horvack and Matthew Pokorny. They have been teaching under the conditional approval for Temple University but now they will be full instructors for the Board.

Major Kisthardt moved on to the next Action Items of two draft policies. The first is for the Firearms Certification which will clarify all firearms policies that we use for constable training. Constable Sokoloff asked about what was new. Mrs. Leffler advised this is basically the policy staff use for background checks and it also brings them in line with the Board Regulations. We are just codifying what we do internally with our processes and also in regards to the regulations. Eventually this will live in Board Regulation. Mr. Pfau advised this is first put into policy as the regulatory process is so long and drawn out. This policy has never existed before and now we will at least have a policy in place.

Vice-Chairman Kisthardt asked if there were any questions regarding the Firearms Policies. Hearing none he asked for a motion to approve the Firearms Policy.

A motion was made by Honorable William Wenner to approve the draft Firearms Policy and the motion was seconded by Constable Julie Sokoloff.

VOTING AYE: Ruddock, Kisthardt, Sokoloff, Wenner

VOTING NAY: None

ABSTAINING: None

The motion carried unanimously.

The second draft policy is the Training Grievance Process Policy. This is a new policy and the first time we will have a codified grievance process. Program Staff will be able to take a look at things if need be and consider grievances. Commissioner Ruddock thanked the staff for getting this policy together as he had made mention we needed something set in place to handle the grievances.

Vice-Chairman Kisthardt asked if there were any questions regarding the Training Grievance Process Policy. Hearing none he asked for a motion to approve the Training Grievance Process Policy.

A motion was made by Commissioner Rodney Ruddock to approve the draft Training Grievance Process Policy and the motion was seconded by Constable Julie Sokoloff.

VOTING AYE: Ruddock, Kisthardt, Sokoloff, Wenner

VOTING NAY: None

ABSTAINING: None

The motion carried unanimously.

The last action item is the 2017 Board Meeting Schedule found on page 34 of the Board Packet. The meetings will be held in Harrisburg on Thursdays at 10:00 am. Constable Sokoloff asked about why all of the meetings are being held in Harrisburg and Mrs. Leffler advised it is due to being the least expensive travel option.

Vice-Chairman Kisthardt asked if there were any questions regarding the 2017 Board Meeting schedule. Hearing none he asked for a motion to approve the 2017 Board Meeting schedule.

A motion was made by Honorable William Wenner to approve the draft 2017 Board Meeting schedule and the motion was seconded by Constable Julie Sokoloff.

VOTING AYE: Ruddock, Kisthardt, Sokoloff, Wenner
VOTING NAY: None
ABSTAINING: None

The motion carried unanimously.

III. Discussion Items:

No discussion items were brought forth for the meeting.

IV. Informational Items:

The first informational item is the property retrieval survey results shown on pages 35-37. This was sent out to all of the Magisterial District Judges (MDJs) in the state. We did not get a very good response back, but we did get responses from 201 MDJs. For the most part, MDJs do not routinely include on an Emergency Protection from Abuse Order (PFA) for a constable to accompany the victim or defendant back to the residence to retrieve property. The majority are not assigning this work to the constables. The survey was done back in March/April time frame.

Starting on page 38, we sent a survey out to all of the certified constables in the state. We had 165 responses in regards to the Optional Training classes. This is the second or third time we have sent out this survey to constables on the Optional Training classes. The Board does advise it is important to continue supplying the recertification for base certifications that were given to the constables and deputies in the basic training classes. Of the 165 who responded, about 70 % are currently certified through the Board for the less than lethal forces options that we train them on, which includes the Chemical Aerosol and the Expandable Baton. Staff will come back to the Board at the November meeting to get their input on the Optional Training classes and if we should continue to keep holding them throughout the training year. Major Kisthardt stated he thought it was a good idea to offer the Optional Training as it gives people choices in the use of force options.

On page 41, part of the new Training Grievance policy, is for the Program Supervisor to come forth to the board and give an update for any training grievances that have been filed. This is an update since the June meeting on three training grievances that were filed in relation to a Basic Firearms class in which the individuals did not qualify after remediation and a second attempt to qualify. They basically did not feel they should have to pay to attend another Basic Firearms class in this training year. However when the letters are sent out to the constables, we do let them know as well that starting in 2017, when the new training year starts, they would not be responsible to pay, only in the current training year if there is a failure. Because all three of these were based upon Board Regulations that you get two attempts to qualify and if not then, you are financially responsible to attend another firearms class. The Board Regulations address these grievances, so Mrs. Leffler felt she was able to resolve these at her level and nothing further had to come to the Board.

The next information item discussed by Mrs. Leffler is the Status of Certifications. As of July 11, 2016, there were 1,391 constables and deputy constables currently listed as active and certified. Of these, 947 or 68% were also certified to carry a firearm in the performance of their constable duties.

Since the inception of the Constables' Training Program in 1996, there have been a total of 4,322 individuals who successfully completed basic training or the waiver examination and were certified by the Board.

On page 43 is the quarterly update on the Constables' Certification, Education and Training System (CCETS). Currently right now, we have 1,487 active registered constables and deputy constables who are CCETS users, which is about 88% of the active constables and deputy constables who have a valid term of office on file with us. We have a total of 1,159 active and certified constables and deputy constables who are users in the system, which is about 94% of the constable population. We have 971 who have chosen email as their preferred correspondence method and 398 sharing their personal information. There are currently 53 registered users from 30 County Clerk of Courts Offices. Mrs. Leffler and Mr. Hower attended the Pennsylvania Prothonotary and Clerk of Courts Association conference back in July. It was very informative for all parties and we did receive a few more CCETS registrations from the Clerk of Courts. The Clerk of Courts questioned why they are responsible for filing the financial liability insurance. Staff explained that the statute states constables must file their financial liability insurance with the county clerk of courts, so that is why we only accept it from them. Staff learned some new things about the Clean Slate/Act 5/Expungement Laws. Major Kisthardt advised he is very pleased with the CCETS success as it relates to money saved for postage, staff time, and also creates better accountability. Mrs. Leffler advised staff can go back and see history logs of enrollments and user activity.

No other informational items to follow.

V. Executive Session:

Major Kisthardt asked to go into Executive Session at 10:34 am.

A motion was made by Commissioner Ruddock to go into Executive Session and the motion was second by Constable Sokoloff.

Executive Session ended at 10:56 am.

A motion was made by Honorable William Wenner to adjourn Executive Session and the motion was second by Commissioner Ruddock.

Commissioner Ruddock made a motion for the revocation of the firearms certification for a Temple Firearms Instructor for failure to follow the approved firearms curriculum for a period of six months, beginning June 2, 2016 and ending December 2, 2016. The motion was second by Constable Sokoloff.

VOTING AYE: Ruddock, Kisthardt, Sokoloff, Wenner

VOTING NAY: None

ABSTAINING: None

The motion carried unanimously.

Constable Sokoloff made a motion that Temple University will create a Training Improvement Plan as outlined by PCCD within 45 days. The motion was second by Major Kisthardt.

VOTING AYE: Ruddock, Kisthardt, Sokoloff, Wenner

VOTING NAY: None

ABSTAINING: None

The motion carried unanimously.

Mrs. Leffler advised of a handout that created on suggestions by Mr. Hower for the Constables Program and developed by PSU Fayette. The handout is "How to Run a Small Business." This handout will be passed out to constables attending Basic Training and Continuing Education classes in 2017. A copy was provided to Board Members.

VI. Public Voice:

Steve Wilson (Constable, Dauphin County) – He attended the Basic Firearms class in Lancaster and thought it was an excellent class. He advised he thought it would be helpful for those to shoot the complete qualification course first before the test. They practiced the day before, but thought it would be more helpful to fire right before they took the Qualification Course. He wanted the Board to take into consideration ways to reduce the cost for those who failed firearms. He asked about the Constables' certification ID card. He stated it does not look like it is a state issued card. He also wanted to attend an Advanced Firearms course this year as he scored above the required 88%. Mrs. Leffler advised a constable can only attend one firearms class per year. He would be able to attend the Advanced Firearms class in 2017.

Mr. Wilson also wanted to thank Mr. Hower for his continuous professionalism in answering questions.

Ronald Quinn (Constable, Centre County) – He thanked the Board for the Board Packet prior to the meeting so he could follow along better. He then talks about a training exemption with Temple for a class back in July at Ambler campus. The constables were present, but the instructor was not. When they finally got together, the instructors went over the information missed but would still be out by the normal quitting time. He stated the constables did not have to go back to make up the missed information. Mr. Pfau advised there was an offer extended to the constables to stay as late as possible to get the material covered. The instructors also compressed class time as much as possible; taking shorter lunches and reducing other breaks. The offer was made to the constables who could not stay to attend another class to make up the missed material. Mr. Pfau explained that the constables were not granted an exemption, but an opportunity to make up missed material; Temple was trying to be as accommodating as possible.

He then asked about the Constables' Education and Training Act (CETA) fee and what is being done to increase the fee. Mr. Merwine advised he will have to check with the Legislative Policy Liaisons as he has not heard anything of late. Mrs. Leffler advised any recommended increase will be based upon the Joint Government Study, which was \$9.00.

Shawn Vinson (Constable, Lancaster County) – In reference to the 2016 Property Retrieval Survey sent to the MDJs assigning the work. He advised it is a deceptive figure as the MDJs only do Emergency PFAs. He stated it is the responsibility of the person trying to get their property to acquire a constable; it is not assigned by a Judge. According to Mr. Pfau, the reason for the survey was because constables say they are given orders to help with property retrieval, but the MDJ instructors for the Program advised they do not assign orders for this type of work.

He is also concerned about the future of the budget for the Program, regarding to the CETA fees. Berks County has moved away from issuing warrants for parking, resulting in the CETA fee going away. Lancaster County has moved to using Sheriffs, not constables. Just these two counties alone will cause an \$800,000.00 decrease in CETA fees being collected by 2018. Mr. Pfau has advised AOPC has given us a lot of data regarding the CETA fee revenue dropping. A lot of the minor and summary offenses can now be paid online without the use of a constable. PCCD has kept the people above the Board informed. The Board, under Statute, does have to submit a financial status of the Program every year. The Program has taken action to try and reduce overhead costs, i.e. going from six training providers down to three; however the cost of training does increase each year (ammunition expenses keep increasing).

Ronald Quinn (Constable, Centre County) – In regards to the property retrieval, he advised many constables are actually doing this task, but many constables are not doing it correctly as constables are not trained on this task.

He then brings up the previous motion of the new instructors being certified and the emphasis of needing more constables as instructors. He is not seeing more constables being Board Certified instructors and wants to know why constables are not being approached to become instructors. Mr. Pfau advised there is an Instructor Development course in October for constables to become instructors. Schools have been actively trying to recruit constables. What happens is when it comes to team/peer teaching, many of the constables become very uncomfortable teaching in front of their peers. This is the hardest part for them to overcome and many just do not follow through with becoming instructors. Mrs. Leffler advised that if a constable does approach us, we forward on their name to the Training Delivery Contractor to get in touch with the constable. The schools have been actively recruiting and several constables will be attending the Instructor Development Course in October. Constable Sokoloff wanted to know if constables were notified of the Instructor Development Course and whether something could be added to the next Training Bulletin. Mr. Pfau advised it could be added to the next Training Bulletin and constables who are interested in becoming instructors would need to get in touch with the sponsoring school.

Constable Quinn also brought up about broadcasting the Board Meetings and he has never heard anything about the cost. He says with us being in the 21st century, it can be done and he wanted to know why broadcasting is not being done. Mr. Pfau advised he does not know the cost off of the top of his head, but it does not come down to being cost prohibitive and because we are a state agency, there are specific requirements and protocol to follow. Mrs. Leffler advised of the cost of specific types of equipment to get the panoramic view of the meeting or even motion activated cameras. Quinn asked about at least a delayed audio streaming. Mrs. Leffler advised it would have to be discussed with Legal counsel. Major Kisthardt advised it is a complex matter when it comes to bandwidth.

The last item Constable Quinn wanted to discuss was firearms certification and the difference between charged or convicted for PCCD certification. He wanted to know if a constable is not firearms certified and does work for the courts, if they have pending charges, can the constable still do work for the courts. Mrs. Leffler advised that yes, they can still work for the courts. We do not do anything with the base certification. Mr. Pfau advised the firearms certification is an add-on to the base certification and is the only certification that the Program has any authority to revoke.

Tony Luongo (Temple University) – He wanted to mention more about diversifying the instructor pool with more constables. They have attempted to recruit for several years and are still attempting to recruit constables to become instructors. Constables must approach the institution and complete the application

process. There is no direct cost for constables to attend the Instructor Development course. Travel costs are reimbursed by the institution.

Mr. Luongo's second comment is concerning the instructor who did not show up on the Saturday morning in July. There was a miscommunication and it is a very rare occurrence that an instructor would not show up to teach. As soon as Temple staff was notified, they were responsive. Mr. Luongo personally drove to class to address the constables and apologized for the inconvenience. The instructor who was to teach the afternoon portion came in early to start the afternoon session earlier to help make up for the additional hours that were missed in the morning. The instructor also stayed as late as possible to help cover the instruction. The constables were made aware that if they were unable to stay due to another commitment, Temple would make all efforts to get them a seat in another class. The issue has been addressed with the instructor. Communication was made with Program Staff throughout the whole process.

Antione Malloy (Constable, Allegheny County) – He had a couple question about subchapter E, 7142, of Act 49, Title 44, which pertains to conduct and insurance. He proceeded to read the section and advised his part of the state needs a little bit of clarification. Major Kisthardt advised the Board is not able to provide the clarification as the Board is centered on training. The constables should go back to the county and request an opinion at the county level.

VII. Adjournment:

Vice-Chairman Kisthardt asked for a motion to adjourn the meeting at 11:33 a.m. Constable Julie Sokoloff made the motion to adjourn the meeting and the motion was second by the Honorable Rodney Ruddock.

VOTING AYE: Ruddock, Kisthardt, Sokoloff, Wenner

VOTING NAY: None

ABSTAINING: None

The next Board meeting will be held on November 10, 2016 at PCCD's Office in Harrisburg.