

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

Approved Minutes of the August 8, 2019 Meeting

Members Present

Thomas Brletic, MDJ, Allegheny Co.
John Bruno, Constable, Dauphin Co.
Major Thomas E. Dubovi, PSP
Francis Peitz Jr., Constable, Allegheny Co.
Rodney Ruddock, Indiana County Commissioner
Craig Westover, Constable, Venango Co.

Commission Staff Present

Sherry Leffler, Constables' Program
Wayne Hower, Constables' Program
Tracy Beaver, Constables' Program
John Pfau, PCCD
Beth Romero, PCCD

Visitors

Mike Marcantino, IUP
Deidre Beiter, Temple University
Anthony Luongo, Temple University
Robert Harford, Penn State Fayette

Janis Maruniak, Penn State Fayette
Daniel Hollenbaugh, Adams Co.
Antione Malloy, Allegheny Co.

I. Call to Order:

The Constables' Education and Training Board (Board) meeting was held at 9:00 a.m. on Thursday, August 8, 2019 at the Pennsylvania Commission on Crime and Delinquency (PCCD), 3101 N. Front Street, Harrisburg, Pennsylvania.

Chair Bruno called the meeting to order at 9:00 a.m. and asked all to join him in the Pledge of Allegiance. He also asked for a moment of silence for the victims of the tragedies in El Paso, Texas and Dayton, Ohio and also for our first responders.

II. Action Items:

Chair Bruno asked if there were any questions regarding the May 9, 2019 Board Meeting Minutes. Hearing none, he asked for a motion to approve the May 9, 2019 Board Meeting Minutes.

A motion was made by Commissioner Rodney Ruddock to accept the Board Meeting Minutes of May 9, 2019 and the motion was seconded by Judge Thomas Brletic.

VOTING AYE: Brletic, Bruno, Dubovi, Peitz, Ruddock, Westover
VOTING NAY: None
ABSTAINING: None

The motion carried unanimously.

The next Action Item on the Agenda was the Financial Report of June 30, 2019, presented by Beth Romero. The Financial Report can be found on pages 7-13 of the Board Packet and is for State Fiscal Year 2018-2019. Under receipts, the balance carried forward from the previous fiscal year was \$1,762,587.83. The fees collected for the fourth quarter were \$1,784,083.33. The total funds available as of June 30, 2019 were \$3,546,671.16. Under Expenditures and Commitments, the total cumulative expenditures as of June 30, 2019 were \$1,754,646.66. The total cumulative expenditures and commitments as of June 30, 2019 were \$3,577,914.35 and that includes \$789,248.15 of the Administrative Expenses and Commitments. The total of uncommitted funds as of June 30, 2019 is (\$31,243.19).

Mr. Pfau pointed out the Program has issued new contracts and is closing out old contracts and any money that was not expended will be uncommitted. The Fund should see a positive direction in the next fiscal report. Commissioner Ruddock asked if there will be a specific period when the Program will be negative as an organization. Mr. Pfau stated the reductions in training resulted in approximately \$750,000 in savings. Even with the Purchase Order Analysis, revised budgets for 2019, revenues staying about \$1.5 million, and control of the basic costs; the Program will still need a surcharge increase. Judge Brletic advised the Program needs a long-term fix to which Mr. Pfau replied the surcharge is the long-term fix. Constable Westover asked if the Commission or any one from the judiciary has gotten any feedback from the General Assembly. Mr. Pfau advised there have been some phone calls from legislators to the agency and one of the constable organizations is trying to generate some conversation. A Reading Eagle news article recently published has generated some conversations. Westover mentioned most of the comments from the Reading Eagle article were asking why constables do not pay for their own training. Mr. Pfau stated the following presentation by Mr. Robert Orth will be a good tool for organizations to take to their legislators. Commissioner Ruddock attended a County Commissioners Association conference and said the only time constables are discussed is when constable duties are given to the Sheriff's Department. This results in a significant financial burden to the counties. Mr. Pfau advised Sheriff's Departments do not want to deal with the civil duties of constables and it would take numerous deputies to take over the constables' work. Judge Brletic advised in his county, Allegheny, the Sheriff's Office could never handle the volume of work that constables currently do in the county. A substantial number of deputies would need to be hired. Chair Bruno advised someone from the Sheriff's Association or the County Commissioners Association needs to come in and state this is not a course of action for a workable solution. The workable solution of increasing the surcharge could then be presented and he advised this type of bill is going to be reintroduced.

A motion was made by Commissioner Rodney Ruddock to accept the Financial Report of June 30, 2019 and the motion was seconded by Constable Craig Westover.

VOTING AYE: Brletic, Bruno, Dubovi, Peitz, Ruddock, Westover

VOTING NAY: None

ABSTAINING: None

The motion carried unanimously.

Mr. Pfau introduced Mr. Robert Orth, a statistical researcher working for IUP Research Institute at PCCD, who analyzed data from Administrative Offices of Pennsylvania Courts (AOPC). He talked about constables relative to training and court work. This is the first time in the Program's history for the data to be shown in a meaningful way to help in the decision-making process. Mr. Orth acknowledged Mr.

Charles Gartside as also working with the data and creating the maps. Mr. Orth studied data based on a one-year period and three-year period. Regarding the three-year period, he reviewed dockets and court work activity from 2016 through 2018. Concerning the one-year period of 2016, he analyzed new constables trained and certified to work for the courts and types of dockets served: criminal, civil, traffic, and service assessments on those dockets. The first set of data looked at certified constables trained to do work for the courts and saw a 9.2% decrease between 2016 to 2018. Of those who were trained and certified in 2016, 55% worked for the courts, 52.6% in 2017, and 2018 is almost a 50% split. The key point is that 50% of certified constables in 2018 were not working for the courts and 100% of newly certified constables in 2016 did not work for the courts. Within three years of those constables trained and certified in 2016, only about 43% are still working for the courts in 2018. Once the 2019 data is available, Mr. Orth will compare this data to the previous years. There were 506 new constables trained in 2016. There was not a single newly elected or appointed constable who did work in the three-year period of data collected. Looking economically at the revenue coming into the Fund based upon a constable's work, about 15% of working constables were not bringing in enough surcharge fees to offset or defray the cost of training them. Commissioner Ruddock questioned if the data could be converted into financial statistical numbers to know what impact the data has over the three-year period relating to what the organization is paying out versus what is coming into the Fund. Mr. Orth advised additional data will be received, but with the assumption that each docket receives a \$5.00 surcharge fee, looking at the data, it will give one a rough idea of what money should be coming into the Fund.

Mr. Orth then took the data to identify the courts and where the work is being done by county. There were 857 unique constables working for the courts during the three-year period. Over the three-year period, there was a 13.5% decrease in yearly dockets based on court work. 77%, or 659 of the 857 of unique constables, are working in the top ten counties. The top ten counties, based on dockets, accounted for 65% of all dockets. 89% of working constables are doing so in their own home county.

In 2016, 1,723,658 service assessments were applied on 543,430 unique dockets, an average of 3.2 service assessments per docket. Of these, 3% of dockets are criminal dockets, 6% are civil dockets and 91% of dockets statewide are "other"; traffic, non-traffic, landlord-tenant, etc. Constables are executing civil dockets at twice the rate of criminal dockets. They are executing traffic dockets at nearly eighteen times the rate of criminal dockets. Mr. Pfau pointed out the data validates the idea that constables are using the Program's training for other means and not working for the courts. The Board's objective is to train constables to do work for the courts. Commissioner Ruddock questioned the compensation system for constables working for the courts. Is it a legal entitlement that constables get reimbursed for training if you work for the courts? Mr. Pfau stated the only reimbursement to the constable is listed in the fee bill and this lists out what services a constable can do and what they get paid. Commissioner Ruddock questioned how a constable could legally work private security using money allocated to train constables to do work for the courts. Mr. Pfau stated the issue of constables using money generated through the court system to make personal financial gain has been an issue for a very long time. Judge Brletic, having written curriculum, stated the curriculum is specific to not covering a constable unless one is working for the courts; to which the public is not aware of this information. Chair Bruno asked if it would preclude a constable from performing work outside the court. Judge Brletic stated it comes down to a legal question and answer. Discussion followed of examples of constables doing work that is not covered under the training provided by the Program. Major Dubovi spoke up and asked if there was ever a legal opinion whether the certification is good only for constable work. Mr. Pfau advised there are historical cases documented of District Attorneys charging constables who do work outside the prevue of the courts. Major Dubovi then asked does the Board have the power to say if you don't actively work for the courts

in the previous calendar year, you cannot get recertified? Mr. Pfau advised this is the direction the Program is taking. He stated the Program is going to continue to get this data from AOPC every year.

The third Action Item was the Issue of Non-Constables Attending Basic Training. Mr. Pfau advised over the last few meetings, having non-constables pay full price to attend Basic Training has been discussed. The Board used to practice this policy, and by 2009, the practice was deemed not very productive and caused many issues of non-constables bumping out elected and appointed constables trying to get into class. All attendees at Basic Training classes would need to currently hold office to enroll and attend as per current Board Regulations.

A motion was made by Judge Thomas Brletic to not allow non-constables to attend the 80-Hour Basic Training and the motion was seconded by Commissioner Rodney Ruddock.

VOTING AYE: Brletic, Bruno, Dubovi, Peitz, Ruddock, Westover

VOTING NAY: None

ABSTAINING: None

The motion carried unanimously.

The fourth Action Item was the Transition Policy Statement update. Ms. Leffler informed the Board this policy started last year to address the firearms failures and qualification. Section 3 pertains to “when a constable fails a basic training, basic firearms, continuing education or firearms qualification course, they shall bear the financial responsibility to attend an additional course regardless of the training year in which the failure occurred. This would be implemented starting January 1, 2020.”

Section 4 pertains to a “constable who is elected or appointed that they must pay for basic training course and the basic firearms training course starting January 1, 2020.” The full cost of a basic training course for 2020, based upon the True Training Cost per Constable handout, will be \$1,013.00 and the basic firearms course will be \$1,354.00. The cost per class will be published each year.

A motion was made by Constable Francis Peitz to approve the Transition Policy Statement requiring constables who fail a class to pay, regardless of the training year, and for new constables to pay for basic training and basic firearms and the motion was seconded by Judge Thomas Brletic.

VOTING AYE: Brletic, Bruno, Dubovi, Peitz, Ruddock, Westover

VOTING NAY: None

ABSTAINING: None

The motion carried unanimously.

The fifth Action Item was the 2020 Board Meeting Schedule. All meetings for 2020 will be on Thursdays and will start at 9:00 am. The meeting dates are February 13, 2020; May 14, 2020; August 13, 2020; and November 12, 2020.

A motion was made by Constable Francis Peitz to approve the Constables’ Education and Training Board 2020 Meeting Schedule and the motion was approved by Constable John Bruno.

VOTING AYE: Brletic, Bruno, Dubovi, Peitz, Ruddock, Westover

VOTING NAY: None

ABSTAINING: None

The motion carried unanimously.

III. Discussion Items:

The first Discussion Item was the Law Enforcement Psychological Testing Requirements presented by Mr. Hower. In looking at law enforcement psychological testing requirements, there is no requirement in statute for Constables, Deputy Sheriffs, and County Probation and Parole. It may be required by the county as a condition of employment for a deputy sheriff or probation and parole officer. It is required for Act 120, Act 235, PA State Police, Game Commission, and Fish and Boat Commission. Judge Brletic stated this is something that must be addressed by the legislature. Mr. Pfau advised implementing this by the Board does not really benefit the Board, but concentrating on who goes to training and for what reason will be more beneficial.

The second Discussion Item was Second Weapon Qualifications. Ms. Leffler advised currently there is no mandate in the Act or Board Regulations that second weapon qualifications are required for certifications. Staff do understand there are officer safety concerns. If a constable has a first weapon malfunction occur, then one would have a second weapon to replace the first weapon. If second weapon classes were created for 2020, extensive updates would need to be made to CCETS to accommodate approximately 22 additional classes and certifications. Mr. Pfau stated the Board can always revisit this topic later once the Fund is more solvent.

IV. Informational Items:

The first Informational Item was the 4-Hour Annual Qualification Update. Mr. Leffler provided statistics as of August 2, 2019. There were 60 annual firearms classes scheduled for a total of 1,200 available seats. 40 classes have been completed and 584 constables passed the qualification course of fire. There have been 46 failures, 3 of which were double failures, meaning the constable failed two classes. The overall failure rate is 7.7%. Three failed Phase 1 on two attempts, 42 failed Phase 2 on two attempts, one failed the written test on two attempts, four constables were no-shows, two constables had malfunctions, there were nine excused and two removed from class for firearms safety issues. There are 20 classes remaining with 38 seats available. 23 constables failed but have not yet paid to enroll into a second class.

The second Informational Item was the Status of Certifications presented by Ms. Leffler to the Board. As of July 19, 2019, there were 1,110 constables and deputy constable currently listed as active and certified. Of these, 890 or 80% were also certified to carry a firearm in the performance of their constable duties.

Since the inception of the Program in 1996, there have been a total of 4,609 individuals who successfully completed basic training or the waiver examination and were certified by the Board.

Constable Westover received an email from a constable and read it before the Board. The letter referenced drones and questioned what law enforcement is supposed to do with someone using them. The

constable wanted the Board to look into this topic for training. Mr. Pfau stated the Board cannot train the majority of constables for the 1% or less occurrence.

V. Executive Session:

Chair Bruno asked to go into Executive Session at 10:38 am.

A motion was made by Constable Francis Peitz to go into Executive Session and the motion was seconded by Judge Thomas Brletic.

VOTING AYE: Brletic, Bruno, Dubovi, Peitz, Ruddock, Westover

VOTING NAY: None

ABSTAINING: None

The motion carried unanimously.

Executive Session ended at 10:49 am.

A motion was made by Judge Thomas Brletic to adjourn Executive Session and the motion was seconded by Constable Francis Peitz.

A motion was made by Judge Thomas Brletic to permanently ban Constable Lance Fisher from firearms training and the motion was seconded by Constable Francis Peitz.

VOTING AYE: Brletic, Bruno, Dubovi, Peitz, Ruddock, Westover

VOTING NAY: None

ABSTAINING: None

The motion carried unanimously.

Mr. Pfau provided an update for the online training module for 2020. The module is developed, and staff have gone through it. He went through the course as if he was never exposed to the course before. It took Mr. Pfau about 3 hours and 15 minutes to complete the 4-hour course. Temple will be the Learning Management System (LMS) platform and staff are working on integrating Canvas with CCETS. There is a lot of work behind the scenes on the Information Technology side and staff are on target with the module starting on January 2, 2020. In working with the current Board Regulations, constables will have to sign up for the classroom portion and online training together.

VI. Public Voice:

Daniel Hollenbaugh (Constable, Adams County) questioned if Staff could send out a questionnaire to the constables who have never done any work for the courts. Mr. Pfau and Ms. Leffler advised it could possibly be done in early 2020. Constable Hollenbaugh questioned about second weapons serving as backup weapons. He also questioned about tracking dockets and the number and type of service performed on the warrant. Mr. Pfau advised the volume of data is too extensive to try and get the number

of services per docket. Constable Hollenbaugh questioned if the Board would accept outside training for Continuing Education. Judge Brletic stated the consensus of the constable position is that constables do tasks no other law enforcement do and there is no equivalent training to waive. Constable Hollenbaugh inquired about constables doing peacekeeping duties. He also asked about the constables who do not work for the courts having to pay to attend class.

Mr. John Pfau advised the Board that Ms. Deb Williams, the curriculum manager for the past seven years, has moved on to a different position and is no longer working at PCCD.

Antione Malloy (Constable, Allegheny County) questioned why the class cost for Basic Training and Basic Firearms are so expensive. Mr. Leffler advised the cost now includes the administrative fee for school staff and PCCD staff. Constable Malloy asked about the waiting lists and if constables get contacted if one does not get into the class. Mr. Pfau advised if there are not enough people in a class to meet the minimum, it will not run, and constables enrolled in the class will be notified. Constables on the waiting list will be notified if they do not get into the class. Constable Malloy asked why constables are not qualified to be school resource officers for the Safe Schools Act. Mr. Pfau stated the specific training is only for sworn law enforcement and not security.

Dee Beiter (Temple University Coordinator) commented on the 4-Hour Annual Qualification Course of Fire and either the constables love the class, or they want the practice and remediation again. Overall, the comments are more positive than negative.

VII. Adjournment:

Chair Bruno asked for a motion to adjourn the meeting at 11:16 a.m. A motion was made by Judge Thomas Brletic to adjourn the meeting and the motion was second by the Constable Craig Westover.

VOTING AYE: Brletic, Bruno, Dubovi, Peitz, Ruddock, Westover

VOTING NAY: None

ABSTAINING: None

The next Board meeting will be held on November 7, 2019 at PCCD's Office in Harrisburg.