

PENNSYLVANIA COMMISSION ON CRIME AND DELINQUENCY

Constables' Education and Training Board

Richard G. Opiela
Board Chair

Fred J. Contino, Jr.
Board Vice-Chair

A.R. DeFilippi
Adam Kisthardt
Teresa J. O'Neal
Julie G. Sokoloff
Harry C. Walsh



Mark R Zimmer
Chairman, PCCD

Linda Rosenberg
Executive Director

John Pfau
Manager
Bureau of Training Services

CONSTABLES' TRAINING BULLETIN

NUMBER 69

OCTOBER 2011

In Memoriam: State Constable and Instructor Fred Jacobs

PA State Constable and Act 49 Instructor Frederic Jacobs passed away June 5, 2011, after an extended illness. The Constables' Education and Training Board certified Constable Jacobs to teach the Act 49 Firearms Course in 1998 and he was currently teaching for the Constables' Education and Training Program at Temple University. Constable Jacobs was one of the first certified constables who was also certified as an instructor for the Board. Fred served as a constable for over 33 years in Newtown Square and was an active member of the Delaware County Chapter of the PA State Constables Association. In 1985, Constable Jacobs was acknowledged by PSCA as the Constable of the Year and was elected to lifetime honorary membership. Constable Jacobs will be missed by all who were fortunate enough to have made his acquaintance in both the training environment and the constable community.

Important Firearms Training Announcements

The Constables' Education and Training Board and the Pennsylvania Commission on Crime and Delinquency voted to eliminate the 10 millimeter caliber firearm as an acceptable firearm to be used during the firearms qualification course. This Board Policy will become effective on January 1, 2012.

If a constable or deputy constable changes the caliber of his or her weapon after registering that weapon with the program, the constable or deputy constable should inform the training delivery contractor where they are enrolled of such change at least one week prior to the class start date. This information is essential so that the correct training ammunition is available for training purposes during the firearms training course.

If a constable or deputy constable arrives at a constables' firearms training and qualification course with a weapon different from the one that was registered in the Constables' Information System (CIS), the training delivery contractor may dismiss the constable or deputy constable from the class, because the training delivery contractor may not have the correct ammunition available for training purposes. Please make sure that you arrive with the weapon that you registered with the program.

Adoption of New Rule 139: Rules of Juvenile Procedure

On April 26, 2011, the Pennsylvania Supreme Court, upon the recommendation of the Juvenile Court Procedural Rules Committee, adopted for use Rule 139, Use of Restraints on the Juvenile. (PA Supreme Court Docket #527). This Rule is effective as of June 1, 2011. An excerpt from the revised rule is below. The full text can be found at: <http://www.pabulletin.com/secure/data/vol41/41-20/792.html>.

Rule 139. Use of Restraints on the Juvenile.

Restraints shall be removed prior to the commencement of a proceeding unless the court determines on the record, after providing the juvenile an opportunity to be heard, that they are necessary to prevent:

- 1) physical harm to the juvenile or another person;*
- 2) disruptive courtroom behavior, evidenced by a history of behavior that created potentially harmful situations or presented substantial risk of physical harm; or*
- 3) the juvenile, evidenced by an escape history or other relevant factors, from fleeing the courtroom.*

Comment

The use of any restraints, such as handcuffs, chains, shackles, irons, or straitjackets, is highly discouraged. The routine use of restraints on juveniles is a practice contrary to the philosophy of balanced and restorative justice and undermines the goals of providing treatment, supervision, and rehabilitation to juveniles. Therefore, restraints should not be used in most instances. However, there are some circumstances when juveniles need to be restrained to protect themselves and others and to maintain security in the courtroom. See 42 Pa.C.S. § 6301 for purposes of the Juvenile Act.

Official Note: Rule 139 adopted April 26, 2011, effective June 1, 2011.

Committee Explanatory Reports:

Final Report explaining the provisions of Rule 139 published with the Court's Order at 41 Pa.B. 2429 (May 14, 2011).

EXPLANATORY REPORT

April 2011

The Supreme Court of Pennsylvania has adopted new Rule 139 with this Recommendation. This new rule is effective June 1, 2011. The purpose of this rule is to eliminate shackling during a court proceeding in almost every case. Only in the few extreme cases should such restraints be utilized. The Committee considered this issue in light of the Report from the Interbranch Commission on Juvenile Justice (ICJJ). In the ICJJ Report, the Commission asked the Juvenile Justice

Delinquency Prevention Committee of the Pennsylvania Commission on Crime and Delinquency to perform a study to reduce and if possible eliminate shackling in Pennsylvania's juvenile courtrooms.

The Committee believes it is appropriate to address the use of restraints in the courtroom and to limit the use of such restraints by Rule of Court, especially in those cases where the juvenile does not pose a risk. The Committee wants to ensure that the routine use of excessive restraints is discouraged because it is contrary to philosophy of balanced and restorative justice and undermines the goals of providing treatment, supervision, and rehabilitation to juveniles. However, there are some circumstances when juveniles should be restrained to protect themselves and others and to maintain security in the courtroom.

Pursuant to paragraphs (1) through (3), restraints may be used if it is determined that they are necessary to prevent: 1) physical harm to the juvenile or another person; 2) disruptive courtroom behavior; or 3) the juvenile from fleeing. In all three circumstances, there should be evidence that the juvenile has a history of such behavior or there are other factors present that make the juvenile very likely to pose a risk.

The Committee believes that the juvenile should be given an opportunity to comment prior to the use of restraints and that the court should make its findings on the record if restraints are utilized.

It is also important to note that this rule only affects the use of restraints in court proceedings. Sheriffs, probation officers, and other persons providing transportation of juveniles to and from detention facilities, placement facilities, and other locations may be governed by internal procedures and policies, including insurance policies, to use restraints during the transportation of juveniles. The use of restraints in those situations is governed by local policies of operation.

[Pa.B. Doc. No. 11-792. Filed for public inspection May 13, 2011, 9:00 a.m.]

Next Board Meeting

Thursday, November 17, 2011 - 10:00 a.m.
PCCD Offices, 3101 N. Front Street, Harrisburg

Meetings of the Constables' Education and Training Board (CETB) are public meetings. Constables are welcomed and encouraged to attend.

2012 Training Cycle

Constables are reminded that the current training cycle ends in October 2011. It is expected that the 2012 training schedule will be available in mid-November 2011. All classes are on a first-come, first-served basis. Classes are also limited in size. Those class limits are strictly enforced, so it is important to register early. In order to ensure uninterrupted certification, constables should enroll in class as soon as possible. **Enroll early. Online enrollment is best.**

2012 ID Cards

In December 2011, the PCCD will mail new certification cards to all constables who have maintained their certifications by successfully completing continuing education during 2011 and by filing current professional liability insurance information with their county clerks of courts. Ample allowance will be made for normal mailing time, so constables should receive their new cards before the old ones expire on December 31, 2011. To ensure that cards are mailed to the correct address, any constable who has recently changed his address should report that change to PCCD immediately.

Constables' Legal Reference Guide

In order to conserve training funds, PCCD is no longer publishing the Constables' Legal Reference Guide. As one alternative, West®, a Thomson Reuters business, publishes a Pennsylvania Criminal Justice Pamphlet, a soft-bound book. West® can be contacted at 1-800-344-5008.

Contact Information at PCCD

If you have questions regarding certification, insurance,
or where to send your election certificate or appointment order

THESE ARE NOT CONTACTS FOR CLASS ENROLLMENT

WESTERN PA: Armstrong, Allegheny, Beaver, Butler, Cambria, Clarion, Crawford, Elk, Erie, Fayette, Forest, Greene, Indiana, Jefferson, Lawrence, Mercer, McKean, Somerset, Venango, Washington, Warren, and Westmoreland Counties

Your contact person is: Kathy Clarke, (717) 265-8552, kclarke@pa.gov

CENTRAL PA: Adams, Bedford, Blair, Cameron, Centre, Clearfield, Clinton, Cumberland, Dauphin, Franklin, Fulton, Huntingdon, Juniata, Lancaster, Lebanon, Lycoming, Mifflin, Montour, Northumberland, Perry, Potter, Schuylkill, Snyder, Tioga, Union, and York Counties

Your contact person is: Don Horst, (717) 265-8551, dhorst@pa.gov

EASTERN PA: Berks, Bradford, Bucks, Carbon, Chester, Columbia, Delaware, Lackawanna, Lehigh, Luzerne, Monroe, Montgomery, Northampton, Pike, Sullivan, Susquehanna, Wayne, and Wyoming Counties

Your contact person is: Sherry Leffler, (717) 265-8554, sleffler@pa.gov

P.O. Box 1167, Harrisburg, PA 17108-1167
Phone (717) 705-3693
FAX: (717) 783-7140
www.pccd.state.pa.us