

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

**Minutes of the June 9, 2010, Meeting**

**Members Present**

Judge Richard Opiela, Allegheny Co, MDJ, Chairman  
A.R. DeFilippi, Court Administrator, Beaver County  
Julie Sokoloff, Constable, Montgomery County  
Constable Harry Walsh, Constable, Allegheny County

**Commission Staff Present**

John Pfau  
Donald Horst  
Sherry Leffler  
Sue Lanza  
Alison Taylor, PCCD Legal Counsel

**Members Absent**

Fred Contino, Constable, Delaware County  
Teresa O'Neal, Juniata County Commissioner  
Captain Rodney Manning, PA State Police

**Visitors**

Barry Betz, Constable, Lehigh County	Raymond Gausline, Constable, Tioga County
Craig England, Constable, Blair County	Scott Henck, Constable, Blair County
Craig Moyer, Constable, Blair County	Brian Gates, Constable, Cambria County
Charles Stipetich, Constable, Allegheny County	Jeanne Fleming, Constable, Cambria County
John Hogan, Constable, Butler County	David Berman, Constable, Luzerne County
James Waters, Constable, Lackawanna County	Mark Fetzko, Constable, Wyoming County
Thomas Roccograndi, Constable, Luzerne County	
Michael Marcantino, Indiana University	Tony Banks, Indiana University
Roland Livermore, Indiana University	John Kaminsky, Indiana University
Christopher Michaels, Lackawanna College	Regina Joyce, Lackawanna College
Eugene R. Baidas, Lackawanna College	Gene Dolan, Temple University
Jeanne Crawmer, Harrisburg Area Community College	
Rebecca Downing, Harrisburg Area Community College	

**I. Call to Order**

The Constables' Education and Training Board (CETB) meeting was held at 10:50 a.m. on Wednesday, June 9, 2010, at the Penn Stater Conference Center, 215 Innovation Boulevard, State College, Pennsylvania, in conjunction with the Constable Instructor Updates for 2011.

The Honorable Richard Opiela, Chairman, called the meeting to order at 10:50 am and asked all to join him in the Pledge of Allegiance. Board members and staff introduced themselves to the audience. Chairman Opiela made opening remarks indicating that Mr. A. R. DeFilippi had been

nominated to be reappointed to the Board. Chairman Opiela commented about the benefits of attending the Instructor Updates as part of the regular Board meeting schedule. He further commented that Board meetings are currently scheduled throughout the Commonwealth, in order to allow constables to attend so they may experience the Board as user-friendly, not just a Board that makes decisions in a vacuum. He also extended a thank you to instructors and constables who participated in the ongoing demographic survey being conducted by Penn State-Fayette. A copy of the preliminary results of the survey was provided to Board members. Instructor participation was 76 out of 100 instructors. Only 381 constables participated in the survey. Chairman Opiela indicated that the Board *does* read the surveys. He further indicated that instead of immediately implementing any Taser®™ program, a survey was mailed to constables, asking how many currently possessed a Taser and/or would be interested in training. He stated that survey results and evaluations are helpful to the Board.

## **II. Public Voice**

Due to a delay in the arrival of Board Member Constable Julie Sokoloff, Chairman Opiela moved to **Public Voice**. He indicated that if there were agenda items that anyone wished to discuss, time would be allotted at the end of the meeting to allow additional comments from the audience.

Constable Mark Fetzko asked, since there was an issue with the training fund being depleted and Act 233 payments not being paid, should there be an increase in the \$5 surcharge being collected or a fee per warrant assessed in order to generate more income for the fund? He also asked whether someone could be more creative regarding the collection of surcharges. He indicated that he has been an instructor for almost 10 years, has not received a cost of living raise, but has been well paid. Chairman Opiela indicated that an agenda item regarding surcharge collections and Administrative Office of Pennsylvania Courts (AOPC) data presented in February was also scheduled for this meeting, and his questions would be addressed shortly. Chairman Opiela indicated that the Board and PCCD are currently trying to determine whether or not fees are being fully-collected, and, if not, how to achieve better compliance with collections by the counties. He stated that neither criminal nor civil cases appear to be problem areas. The difficulty arises with non-traffic, summary, and fine and cost warrants. Mr. John Pfau, PCCD staff, indicated that the Board has been reviewing training fund finances for the past year, comparing historical data on revenues and increased costs of training. He stated that over the past seven years, costs have increased two or three times faster than revenues. He indicated that revenues will never catch up to the cost of training, because, as training has been expanded, revenues have been relatively flat. Mr. Pfau indicated that an increase in the surcharge could only be accomplished through legislation, with analysis and recommendations coming from the Commonwealth Office of Management and Budget (OMB). Mr. Pfau indicated that for the past several months, staff has been comparing data with an eye on the next four or five years. Any reduction in training costs would probably mean the elimination of additional and advanced courses. Constable Fetzko suggested that PCCD recommend to the OMB that the surcharge should increase commensurate with increases in training costs, rather than cut training.

Mr. Pfau further explained that since the election in 2009, over 650 new constables have been added to the constable system, the largest increase in the 16 years of the program. He stated that 17 basic training classes were scheduled in 2010 to accommodate them and all were filled to capacity. Normally, there are six to eight basic training classes each year. The increase in constable numbers

will also have to be addressed in 2011, with an increase in continuing education and firearms classes. Mr. Pfau indicated that PCCD staff had recently met with school administrators to discuss the number of classes that will be needed in 2011. Chairman Opiela asked that staff include research regarding instructor fees and the financial impact on the fund. He further added that the Board recently decided to eliminate Act 233 payments, and suggested that, in hindsight, given current figures, the past decisions to make these payments would have never been made.

Constable Scott Henck, Blair County, introduced himself and indicated that he has the state contract for Stinger products. He acknowledged receipt of the Taser survey, and indicated that he had not seen any information sent out to constables regarding Stinger products. He admitted self-interest in proposing Stinger as an option for constables; similar to Taser, yet costing less. Constable Henck provided some basic equipment information, and asked if the Board had included the Stinger when they were reviewing training equipment. Chairman Opiela indicated that both devices were initially presented at the Board meeting in Erie, and training costs then became an issue – whether or not the fund could handle an additional training cost. The Board is still investigating the viability of this type of training and the purchase of equipment for training. Constable Henck requested an audience with a Board member to provide more detail regarding Stinger; Chairman Opiela referred him to Mr. Ted Mellors, Penn State Fayette, developer of the curriculum. Constable Harry Walsh asked if constables were legally allowed to use a Stinger or a Taser. Chairman Opiela advised that the issue was previously addressed by the Attorney General’s Office. Mr. Pfau clarified that the Attorney General determined that if the Board chose to train and certify constables with any electronic device, they would not oppose it. Constable Fetzko indicated that he is a certified Taser instructor and asked whether or not he is permitted to carry the device, since PCCD did not train or certify him. Mr. Pfau indicated that the Attorney General did not provide an opinion regarding individual constables who chose to obtain training on their own. Their opinion was based on whether or not training and certification would be provided by the Board.

At this point, Board member Constable Sokoloff arrived and Chairman Opiela suspended **Public Voice** and returned to the regular business meeting at 1113 hrs.

### **III. Informational Items**

The first item on the agenda was **Status of Certifications Issued**. Ms. Sherry Leffler, PCCD staff, provided an overview of certifications. She stated that, currently, there are 1,341 certified constables, and that 3,549 constables have been issued certification numbers since 1996.

The next item on the agenda was **Law Enforcement Waiver Examination Update**. Ms. Leffler provided an overview of the examinations. She indicated that the waiver exam currently has 106 multiple choice and true/false questions. The third round of waiver testing for this year is set to be held June 21; there are six individuals scheduled for this test. She stated that on February 22 and March 2, ten persons took the test, five were municipal police officers, five were deputy sheriffs. Five persons passed the waiver test. Those who failed must attend 80-hour basic training in order to become certified. Board Regulation provides that a constable has one opportunity to pass the basic training waiver examination. Chairman Opiela questioned whether or not there was a particular area where failures occurred. Ms. Leffler indicated that the section covering civil law and process is the most difficult.

The next item on the agenda was an **Update on the Taser®™** survey. Ms. Sue Lanza, PCCD staff, provided an overview of preliminary results of the second survey mailed to constables. She stated that an Addendum to the Board packet was provided that briefly outlined survey results: approximately 1,200 surveys were mailed and 339 were returned as of June 2, 2010. She stated that seventy-six surveys answered, “No,” in their responses to all questions (22% indicating no interest in the purchase of a Taser or receipt of training), indicating they did not want to be involved with the Taser, did not want to take the training, and did not want to pay for any of the equipment. She indicated that 160 surveys provided comments, ranging from, “thank you, it’s a valuable tool,” to negative comments indicating that their counties won’t allow them to carry, “it’s illegal for us to carry” or “it’s a ridiculous survey”. She also stated that other comments asked for an accounting of constable fund spending, “who benefits from all of that money?” and an explanation for the survey, “it’s a waste of time for this survey,” that “it could’ve been done during Con Ed classes.” She indicated that overall, however, the number of surveys returned and responses given show that the majority of respondents have an interest in this training. Mr. Pfau indicated that the surveys will eventually be provided to Penn State-Fayette for evaluation and report to the Board. Chairman Opiela noted that out of approximately 1200 surveys mailed, only 339 have been returned.

### **III. Action Items**

Chairman Opiela asked if there were any questions from the Board regarding the **Minutes of the February 4, 2010, Meeting**. Mr. DeFilippi moved to approve the minutes and Constable Harry Walsh seconded the motion.

VOTING AYE: Opiela, DeFilippi, Sokoloff and Walsh.

VOTING NAY: None

ABSTAINING: None

The motion carried.

Chairman Opiela moved to the next action item on the agenda, consideration of the **Financial Report for June 9, 2010**. Mr. Don Horst, PCCD staff, provided a review of the Financial Statement as of March 31, 2010. He stated that the balance carried forward from the previous year was \$7,379,427.39. Fee Collections from July 1, 2009 through March 31, 2010 were estimated at \$2,200,000.00. Total funds available as of March 31, 2010 were \$9,579,427.39. He added that subtracting total commitments of \$6,828,721.66 for administration and costs of training programs, left a balance of \$2,750,705.73 at March 31, 2010. He noted that income is shown for a one-year period, and expenditures are shown for up to a two-year period. Funds not spent for training are returned to the fund and are shown at the end of a budget period. Chairman Opiela also noted that a Penn State contract had been closed out and approximately \$7,367 was returned to the fund. He noted that a major change since February was an increase of some staff salaries. Mr. Horst indicated that the change could also have been caused by increased contributions to retirement and health care plans. Constable Walsh commented that during the previous Board meeting he had asked why the training fund was not an interest-bearing fund. Mr. Pfau explained that the constable’s training fund is considered to be a restricted account. He stated that there are many accounts within the Commonwealth that are legislatively considered restricted receipts accounts (for a specific purpose)

and never bear interest. The Commonwealth's position is that because it is a restricted account, it is a non-interest bearing account. Mr. Pfau explained how a similar fund is used for the Sheriffs' Departments in Pennsylvania License to Carry permits. Mr. Pfau further offered that over the course of the existence of the training fund, full contract amounts have never been paid. There have always been funds returned to the account. However, due to the large increase in the number of new constables to be trained this year, it is not anticipated that funds, if any, would be returned from the training contracts because of additional basic courses. Chairman Opiela also drew the Board's attention to the Fee Collection sheet in the packet, showing that collections for the past four years were down. The third quarter for each of the past four years has been lower than the first quarter of each year.

Chairman Opiela asked if there were any further questions regarding the Financial Report. There were none, and a motion to accept the Financial Report was made by Mr. DeFilippi. The motion was seconded by Constable Sokoloff.

VOTING AYE: Opiela, DeFilippi, Sokoloff and Walsh.

VOTING NAY: None

ABSTAINING: None

The motion carried.

Chairman Opiela moved to the next action item on the agenda, **Board Policy on Testing**. Mr. Horst provided an overview of a recommended addition to current policy, "*At no time should an instructor or school administrator read a written examination to any trainee at constable training classes. Trainees must be able to successfully complete the examinations on their own.*" Mr. Horst further explained the intention was that, under no circumstances, was an instructor permitted to give, or be perceived to give, an advantage to a constable student by reading test questions to him. Constables must be able to read and understand written words in order to successfully do their jobs; therefore, they must be able to successfully complete written examinations on their own. Chairman Opiela asked if the policy had been reviewed by PCCD legal counsel regarding conflict with the Americans with Disabilities Act (ADA). Chairman Opiela further asked whether or not this policy would affect a constable who could not understand English due to a language barrier. Mr. Horst indicated that language has never been an issue. Constable Thomas Roccograndi requested clarification, if the policy meant that the student should be able to read English. Mr. DeFilippi indicated that some reasonable accommodation should be made, if language is an issue. Mr. Pfau indicated that the original intent of the policy was to require students to take the written test on their own, without instructors reading or interpreting the content of the questions. Chairman Opiela indicated that he agreed that instructors should not interpret the content of test questions; however, if their primary language is Spanish, the opportunity should be afforded to provide a test in Spanish. Mr. DeFilippi indicated that his interpretation of the policy is that it does not intend to address language issues. Rather, it simply states that an instructor should not be providing any oral instructions during the examination process. Ms. Beth Dombrowsky, Harrisburg Area Community College (HACC) training coordinator, indicated that the Municipal Police Officers' Education and Training Commission (MPOETC) allows an extra 20 minutes for testing to those who present documentation of a learning disability. Constable Fetzko offered that his understanding of ADA requirements provides that if a disability is documented, an additional hour must be provided for testing, and a private room must be

made available, if requested. Constable Roccogranti asked for clarification as to the responsibility of instructors regarding any extension of time for testing and any implications that that would have on completing training in a timely manner. Chairman Opiela asked for comment from Ms. Alison Taylor, Esq., PCCD Legal Counsel. Ms. Taylor indicated that previous PCCD legal counsel had reviewed the policy and found no issues; however, she had not had the opportunity to review the policy and would like time to determine if there are any implications regarding ADA requirements. Chairman Opiela indicated that his concern lies with whether or not the policy is sufficiently comprehensive to cover any ADA issues. He did agree that instructors should not be reading or suggesting how test questions should be interpreted.

Chairman Opiela suggested that the matter be tabled until further legal review.

Chairman Opiela moved to the next action item on the agenda, **Instructor Review and Certification**. Ms. Leffler reviewed the applications and gave staff recommendations as follows:

## TEMPLE UNIVERSITY

### Michael Canaris

#### Requested Subject Certifications:

Professional Development  
Use of Force  
Crisis Intervention

### Richard Carey

#### Requested Subject Certifications:

Professional Development  
Prisoner Transport and Custody  
Court Security  
Crisis Intervention

### Janis Pickell

#### Requested Subject Certifications:

Professional Development  
Use of Force  
Prisoner Transport and Custody  
Court Security

**Richard Ruck, Jr.**

Requested Subject Certifications:

Professional Development  
Use of Force  
Court Security  
Crisis Intervention

**Christie L. Williard**

Requested Subject Certifications:

Use of Force

Staff recommended certification of each individual for all subjects listed.

Chairman Opiela asked if there were any questions from the Board regarding the applications. Hearing none, he asked for a motion to approve the certifications. Constable Harry Walsh made a motion to approve the applications of the five instructors. Constable Sokoloff seconded the motion and Chairman Opiela called for a vote.

VOTING AYE: Opiela, DeFilippi, Sokoloff and Walsh

VOTING NAY: None

ABSTAINING: None

The motion carried.

**IV. Discussion Items**

The next item on the agenda was **Cost Cutting Measures**. Chairman Opiela recognized Mr. Pfau who provided an overview of additional information gathered since the last meeting regarding cost cutting measures. One of the items discussed was ammunition cost. Mr. Pfau provided an overview of the cost of ammunition and training for 2010, as reported by each training region. He stated that the average cost of ammunition per constable was obtained by comparing average cost per round, average number of rounds per constable and the number of certified constables per region. As a matter of review, Mr. Pfau stated that each constable is provided 300 rounds per constable for annual and advanced training, 500 rounds for basic training. Mr. Pfau stated that \$88,748.78 has been paid for ammunition this year. Mr. Pfau indicated that discussions were held with school administrators, and it was discovered that, due to difficulties in obtaining ammunition in a timely manner, it has become necessary to order quantities one year or more in advance. At times, orders have not been received in time for a class, and ammunition must be obtained elsewhere at a much higher retail price. He indicated that in reviewing the data, it is apparent that ammunition is being purchased in quantities equal to basic firearms training for all, approximately 540 rounds per constable. Mr. Pfau further explained that some of the training providers are state-funded schools and must follow state

guidelines for procurement of materials. Mr. Pfau suggested to the Board that any reduction in the purchase of ammunition should be based on a balance between costs and training objectives, not costs alone. Mr. Pfau further suggested that more communication between the Board and the schools would be helpful in an effort to better forecast training needs. Mr. Pfau stated that during previous election cycles, there were much smaller influxes of new constables, compared with the additional constables that were added as a result of the 2009 election (an unprecedented 650 new constables). Mr. Pfau reminded the Board that improvements to the current online system are being made. Those changes should assist schools in better-forecasting ammunition and supplies, and sharing information. Chairman Opiela asked if there could be a restriction on the ammunition caliber used by constables. Mr. Pfau reminded the Board that regulation states that "The ammunition provided shall be of a type and design generally acceptable for law enforcement usage," and lists .380 up to 10mm caliber. He indicated that the majority are 9mm, .40 caliber, and .45 caliber, but any restriction would require a formal regulation change. Chairman Opiela questioned whether or not there has ever been a situation where a constable indicated he was going to qualify with a specific caliber weapon, then arrived at training with a different caliber. Mike Marcantino, IUP, indicated that he relies on the weapon that has been registered in the system. If a constable arrives with a different weapon, extra ammunition would not be available. Constable Roccograndi questioned what would happen in a situation where a constable was qualified with a particular weapon, then chose to change to a different weapon the following year. Chairman Opiela suggested that situation would have to be addressed by PCCD and the schools. At this point, an additional question was received from an unidentified member of the audience, asking if a single vendor might be a more cost effective source of ammunition. Mr. Pfau indicated that the use of PCCD or a single vendor would not be a cost effective use of staff time and would limit the flexibility currently experienced by the schools.

Chairman Opiela asked if any further information was available regarding the review of the continuing education and instructor update costs. Mr. Horst provided an overview of class projections and costs for 2011 and 2012. He stated that due to the increased number of constables elected and/or registered in 2009 and 2010, training costs for 2010 increased by about \$150,000 for basic training and basic firearms training. He indicated that there are also newly elected and appointed constables and deputies from 2009 who will not have received their basic training in 2010. Projected additional training costs for 2011 are estimated at \$80,000, and projected additional training costs for 2012 are estimated at \$30,000. Mr. Pfau indicated that, typically, a class can be cost effective with 20 or 25 students. He stated that budget projections are based on the ability to maximize class seating and still be flexible enough to run a few additional classes, if necessary. He stated that the projected class schedules for Con Ed and Annual Firearms must be able to accommodate the newly-trained constables in subsequent years. He indicated that the training contractors are locked into two-year contracts and must be afforded the flexibility to add more classes without having a dramatic effect on their original budgets. This is accomplished by ensuring that all classes are run with the most cost effective number of students as possible. Mr. Horst indicated that during 2010, basic training classes had an average of 28 students per class. Mr. Pfau indicated that classes with registrations below the specified minimum would be cancelled, and students given the opportunity to attend a class scheduled for a different date.

Chairman Opiela noted that the next meeting will be held Thursday, August 5, 2010, at the Crowne Plaza, in King of Prussia.

## **V. Public Voice**

Chairman Opiela then returned to Public Voice and indicated that several matters would be discussed during the Executive Session. If audience members had comments regarding that session, they would be permitted at this time. He advised that the following matters would be discussed: Philip Intrieri Arbitration Hearing, an issue regarding a pending lawsuit/injunction against PCCD, a grievance issue regarding Constable Associations speaking to constable classes, a letter from Constable Thomas Broscius revisiting the under 21 firearms issue, and an issue with Mr. Robert Rapak, regarding proficiency performance during classroom instruction.

Constable Instructor Thomas Roccograndi made a comment about the grievance filed by Constable Jack Sarge regarding Constable Associations speaking to constable classes. He stated that the class was on a break when Constable Chris Capasso entered the school and asked to speak with one of the students, Constable Joseph Walters, President of the Luzerne County Constables Association. He indicated that he did not see any problem allowing the visit during a break in the classroom time. Mr. Pfau indicated that the Board created the grievance form as an initial notification of something observed. It is then for staff and the school to investigate the circumstances. Constable Roccograndi indicated that he had read the grievance and felt the incident was a personal issue between the two constables. Mr. Pfau indicated that a letter was sent to all of the schools reminding them that no individual or association is permitted to use instructional time to solicit for any purpose.

## **VI. Executive Session**

Chairman Opiela asked if there were any other comments regarding the Executive Session. At 13:10 pm, Chairman Opiela asked members of the audience to please leave the room while the Board met in Executive Session.

## **VII. Adjournment**

Upon return from Executive Session at 14:10 hours, Chairman Opiela provided some follow-up to the situation regarding Constable Broscius. He advised that the Board had discussed the situation with the solicitor, and there had been no change in law that would compel the Board to change its policy regarding firearms training of constables under age 21. Chairman Opiela directed that a letter be sent to Constable Broscius indicating that his request to exempt him from the age requirement has been denied, and thanking him for his concern.

Chairman Opiela indicated that there had been a request from PCCD staff that a workshop be held before the August 5, 2010, Board Meeting, concerning the new constable software being developed at PCCD. Mr. Pfau indicated that every two weeks PCCD staff meets to discuss issues identified regarding online access and registration, among other things, in order to make the Constable Information System more user friendly for constables and the schools and more functional for staff. He indicated that staff has identified some areas that will require input from the Board to determine if changes should be made to existing policy or regulation. Mr. Pfau suggested that it would be a better use of Board time to discuss the issues in a workshop prior to a formal Board meeting. Those discussions could then be aired during regular Board meetings. He indicated that the redesign of the

constable record system is not a matter that requires immediate attention; however, it could expedite matters when the Board decides to discuss administrative matters at a regular meeting. Ms. Taylor indicated that a working group can meet informally, but cannot do anything absent Board action. Mr. DeFilippi indicated that it could be an ad hoc committee that could make recommendations to the Board. Mr. Pfau stated that it would be comprised of a few Board members assembled to provide guidance and input to staff regarding certain issues. He stated that those discussions could then be formally presented at a subsequent Board meeting. He pointed out that the best time for such a meeting would be after the next Board meeting in August or early September. Mr. Pfau indicated that a survey and outline of topics would be sent to Board members to determine their availability. Chairman Opiela noted that the next meeting will be held Thursday, August 5, 2010, at the Crowne Plaza in King of Prussia. Mr. DeFilippi indicated he would not be available for that meeting.

Chairman Opiela asked if there were any more comments from staff or Board members. There were none, and he called for a motion to adjourn. Constable Sokoloff made a motion to adjourn. Chairman Opiela adjourned the meeting at 14:15 pm.