

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

**Minutes of the May 10, 2012 Meeting**

**Members Present**

Judge Richard Opiela, Allegheny Co, MDJ, Chairman  
A.R. DeFilippi, Court Administrator, Beaver County  
Teresa O'Neal, Juniata County Commissioner  
Julie Sokoloff, Constable, Montgomery County  
Harry Walsh, Constable, Allegheny County

**Members Absent**

Captain Adam Kisthardt, PA State Police  
Fred Contino, Constable, Delaware County

**Commission Staff Present**

Donald Numer, Acting Manager, Bureau of Training Services  
Donald Horst, Bureau of Training Services  
Sherry Leffler, Bureau of Training Services  
Kathy Clarke, Bureau of Training Services  
Megan Castor, PCCD Assistant Legal Counsel  
Bob Merwine, Director, Office of Criminal Justice System Improvements (OCJSI)

**Visitors**

Mike Marcantino, Indiana University  
Garry Kimmel, Indiana University  
Jeffrey Watson, Indiana University  
Rick Bayles, Constable, Crawford County  
Albert Dancisin, Constable, Allegheny County Constables Association (ACCA)  
Paul Bauer, Constable, ACCA  
Eugene Celender, Constable, ACCA  
Paul Schlosser, Constable, ACCA  
Craig England, Constable, Blair County  
Barry Betz, Constable, Lehigh County  
Philip Dodge, Constable, ACCA, PA Fraternal Order of Constables (PAFOC)  
David Corle, Constable, PAFOC  
Mike Vogel, Constable, Allegheny County  
Antoine Malloy, Constable, Allegheny County

**I. Call to Order**

The Constables' Education and Training Board (Board)(CETB) meeting was held at 10:30 a.m. on Thursday, May 10, 2012, at the Fairfield Inn and Suites, 200 Fairfield Lane, Butler, Pennsylvania.

The Honorable Richard Opiela, Chairman, called the meeting to order at 10:30 am and asked all to join him in the Pledge of Allegiance. Chairman Opiela said that he spoke with Constable Contino, Board Vice-Chair, who had a conflict and would not be able to attend the meeting. Chairman Opiela

said he will pass along Constable Contino's comments later in the meeting. Board and staff introductions were made to the audience members.

## **II. Action Items**

Chairman Opiela moved to the first action item on the agenda, Minutes of the February 16, 2012, Meeting, pages 1-16 of the board packet. Chairman Opiela asked if there were any questions or corrections concerning the minutes. Constable Julie Sokoloff stated there was a typo on page 15, the second line of the second paragraph; the word "even" should be the word "be." Mr. Donald Horst, Supervisor, Constables' Training Division, said staff would make that correction. Chairman Opiela asked for a motion to approve the minutes. Mr. A.R. DeFilippi motioned to approve the minutes. Constable Julie Sokoloff seconded the motion. The motion carried unanimously.

VOTING AYE: Opiela, DeFilippi, O'Neal, Sokoloff, and Walsh

VOTING NAY: None

ABSTAINING: None

The motion carried unanimously.

Chairman Opiela moved to the next action item of the agenda, **Financial Report for May 10, 2012, Meeting**, pages 17-20 of the Board packet. Mr. Horst said the beginning balance from the previous year was \$6,513,974.24. The fee collections from 7/1/11-3/31/12 and estimated collections from 4/1/12 – 6/30/12 make the total funds available \$8,518,405.24. The expenditures and commitments looking to the end of the current contracts (end of 2012) is \$6,092,559.85. This will leave a balance of \$2,425,845.39. He said these are based on fund projections and real costs in the expenditure column. The commitments column is the money on the contracts that has not been spent yet. Mr. Horst asked if there were any questions from the Board. There were no questions asked.

Chairman Opiela noted that on page 18, the collections for March 2011 are \$447,073.75, which is down at least \$10,000 from the previous year. He said the reality is the CETA fee is down and the trend is down when it is compared to the last several years. He wondered if we should send a letter regularly to AOPC to let them know about the status of the fee collections. He said that the Administration of Pennsylvania Courts (AOPC) already knows the issue, but we should probably send a report periodically about the CETA fee collection being down, but the number of issued warrants is up.

Mr. Horst said the last letter sent was to Mr. Mark Rothermel, AOPC, from Chairman Opiela. Commissioner Teresa O'Neal said the letter should include this trend and what the Board's concerns are. Chairman Opiela said some of this could be because of the changes in how some counties are handling warrants and some may be from the change in the MDJS system. The MDJS system changed in 2009 and there has been some contact with AOPC and there has been some updated training bulletins regarding entering the CETA fee in the MDJS system. The Board and PCCD have made efforts on rectifying the situation and we should try to continue to document this.

Chairman Opiela said the letter should come from the Board, but maybe it should go to various committees and branches of government. It is frustrating because there is a system in place that is supposed to collect money to pay for constables' training, yet we can't get it collected correctly.

Mr. DeFilippi asked Chairman Opiela to whom did he address correspondence at AOPC. Chairman Opiela said Mark Rothermel, who is in charge of the MDJ part of the AOPC. Mr. DeFilippi suggested sending the letter to people who oversee Mr. Rothermel, such as Joe Middleman and Zygmunt Pines. Mr. DeFilippi said part of the issue, technologically speaking, is that we are requesting a field that forces the entry of the CETA fee. This would be in Mr. Rothermel's bailiwick, so maybe someone he works for could help him prioritize this issue. Chairman Opiela said maybe the letter should go to Mr. Pines as well as Mr. Rothermel. The CETA fee issue is a continuing issue and it is not going away, so a letter could show this continuous pattern and be informational, not accusatory.

Chairman Opiela asked for a motion to accept the financial report. Constable Harry Walsh motioned to accept the financial report. Commissioner O'Neal seconded the motion.

VOTING AYE: O'Neal, Walsh, DeFilippi, Opiela, Sokoloff

VOTING NAY: None

ABSTAINING: None

The motion carried.

Chairman Opiela moved to the next action item on the agenda, **Instructor Certifications**, starting on page 21 of Board packet. Ms. Kathy Clarke, PCCD staff, reviewed the applications and gave staff recommendations, as follows:

### **Lackawanna College**

#### **Jason Dubernas**

##### New Subject Certifications

Role of Constable in Justice System

Professional Development

Criminal Law and Process

Use of Force

Mechanics of Arrest

Prisoner Transport and Custody

Court Security

Crisis Intervention

Firearms

### **Temple University**

#### **Donald West**

##### New Subject Certifications

Professional Development

Use of Force

**Michelle Frei**

New Subject Certifications  
Professional Development

**Robert Lembach II**

New Subject Certifications  
Professional Development

**Indiana University of Pennsylvania**

**Patricia Forester**

New Subject Certifications  
Defensive Tactics

**David Andrascik**

New Subject Certification  
Defensive Tactics

**Elmer Banks**

New Subject Certification  
Defensive Tactics

**Philip Carlo**

New Subject Certification  
Defensive Tactics

**P. Richard Encapera**

New Subject Certification  
Defensive Tactics

**Carl Garofalo**

New Subject Certification  
Defensive Tactics

**Leo Hegarty**

New Subject Certification

Defensive Tactics

**Blaine Hertzog**

New Subject Certification

Defensive Tactics

**Michael Marcantino**

New Subject Certification

Defensive Tactics

**Tracy Veri**

New Subject Certification

Defensive Tactics

**James Gregg**

New Subject Certifications

Defensive Tactics

Firearms

**Craig Stone**

New Subject Certifications

Role of Constable in Justice System

Professional Development

Criminal Law and Process

Use of Force

Mechanics of Arrest

Prisoner Transport and Custody

Court Security

Firearms

Ms. Clarke pointed out that the instructor applications for Donald West, Robert Lembach, and Michelle Frei were **conditionally approved** on March 14, 2012, by Mr. Horst. They are all Board-certified in other subjects.

Jason Dubernas, Patricia Forester, and Craig Stone will all be new instructors for the Program. Mr. Andrascik, Mr. Banks, Mr. Carlo, Mr. Encapera, Mr. Garofalo, Mr. Hegarty, Mr. Hertzog, Mr. Marcantino, Ms. Veri, and Mr. Gregg are currently Board-certified instructors for the Program.

Staff recommended certification of each individual for all subjects listed above. Ms. Clarke asked if there were any questions from the Board regarding the applications. No questions were asked and Chairman Opiela asked the Board for a motion to approve staff recommendations for the instructor certifications on pages 21- 26 and Addenda One and Two of the Board packet. Constable Sokoloff made a motion to approve the instructor applications. Commissioner O’Neal seconded the motion.

VOTING AYE: Opiela, DeFilippi, O’Neal, Sokoloff and Walsh

VOTING NAY: None

ABSTAINING: None

The motion carried.

The next item on the agenda was **Optional Training Courses of Action**, pages 27-31 of the Board packet. Ms. Sherry Leffler, PCCD staff, said that staff has been looking at different ways to make the Program more efficient while trying to save money. The optional training classes were introduced in 2005 and consisted of eight hours of classroom instruction and eight hours of tactical instruction. In 2006, 32% of the constable population attended the optional training classes; however, these classes have shown a steady decline in the past seven years. In 2008, the optional training classes were reduced to one eight-hour day consisting of four hours of re-certification and four hours of practical exercises. In 2011, less than 2% of the constable population attended the optional training.

In 2010, the average cost per constable to attend the optional training was \$296.39. This amount included invoiced training class costs from training delivery contractors and costs incurred by the curriculum developer. That year, the Program ran four optional training classes and trained 23 constables and deputy constables. The total cost for optional training in 2010 was \$6,817 (\$296.39 x 23). In 2011, the average cost per constable to provide the optional training was \$268.23.

At present, each of the six training regions holds one optional training class at an approximate cost of \$7,700 (the average cost of optional training in 2010 and 2011). The cost of training has significantly increased over the last several years; however, surcharge collections have remained stagnant.

Staff conducted an analysis of the problem by developing different courses of action to assist in the evaluation process. Ms. Leffler asked Board members if they feel that the training program has an obligation to provide re-certification training for chemical aerosol and expandable baton, when initial certification is provided by the Program during basic training. Ms. Leffler said the courses of action will depend on the Board’s response to that question.

Ms. Leffler explained that the initial certifications for OCAT Oleoresin Capsicum and Monadnock Expandable Baton (MEB) are provided in basic training; however, constables/deputy constables are not coming back to receive the re-certification training in the optional training. Constables and deputy constables may be going elsewhere to receive the re-certification training.

Chairman Opiela asked if these skills were any less perishable than firearms skills. Ms. Leffler said the skills are not less perishable; however, constables/deputy constables are not taking advantage of getting re-certified through our training program. Chairman Opiela said maybe we should make this re-certification training a part of the regular continuing education training.

Mr. Horst said this would take four hours out of the twenty-hour continuing education training. Chairman Opiela said the reality is that if it saves one life, it would be worth it. He said it should be alternated every other year between four hours OCAT and four hours MEB.

Constable Sokoloff said that the defensive tactics module is currently eight hours in continuing education and she wondered if the OCAT and MEB could be part of this eight hours.

Mr. Donald Numer, Acting Manager, Bureau of Training Services, asked Chairman Opiela if the direction he is heading is to replace something in continuing education for the four hours or to extend the continuing education by four hours. Chairman Opiela said he is thinking about possibly taking something out of the continuing education and replacing it with OCAT/MEB or expanding it.

Mr. Numer pointed out that expanding the training may impact the contractors and their budgets.

Mr. Horst said that some constables do not carry OC or Baton and this would force them to take the training every year even though they do not use these devices.

Mr. DeFilippi said that obligation is a strong word. He feels the Board has an obligation to provide quality instruction to the training population in consideration of the revenue that is available for training. He is not sure if he can answer the question that was asked earlier by Ms. Leffler.

Constable Sokoloff said the optional training was instituted in 2005. It had not been provided since the beginning of the training program. The money was available at the time, and the Board offered the training. Now, the Board needs to re-visit optional training.

Chairman Opiela asked if it is possible to split the defensive tactics module in continuing education to include alternating OC and MEB every other year. Constable Sokoloff said it would be convenient. She wonders how many constables are out there carrying both and are not currently certified, because they do not attend the optional training when it is offered.

Constable Sokoloff said, if it could be incorporated into the continuing education defensive tactics module, she could see keeping it. If not, with only 2% of the training population attending it as optional training, it should no longer be offered.

Chairman Opiela agreed that it should not be optional; it should either be made part of the mandatory educational process or taken out. He would like to see something from Penn State on how it could be re-introduced into the continuing education program.

Commissioner O'Neal said she agreed that the optional training is not working. The Board has shown a commitment to provide the best and most useful training within the Board's means. She felt optional versus part of the continuing education should be re-visited.

Chairman Opiela tabled the Optional Training Course of Action. He said the Board is going to give this issue back to staff to see what the costs would be by incorporating OC/MEB into continuing education training (either by making it a part of the current defensive tactics module or by increasing the number of hours of continuing education by four hours), and to see if we would be violating any education requirements. He said Ted Mellors (Penn State-Fayette) should be contacted to get some feedback to see if and how it can be re-introduced into continuing education training.

### **III. Discussion Items**

The next item on the agenda is **Travel Related Expenses Update**. Discussions at the February 16 Board Meeting included holding all Constables Education and Training Board meetings at PCCD Offices and offer teleconferencing to Board members, or to keep with the rotating meeting schedule around the state and offer teleconferencing to Board members. The Board asked staff to look at travel-related expenses for both the Board and staff to attend the Board's quarterly meetings.

Ms. Leffler obtained costs from the Office of Financial and Management Administration (OFMA) on travel-related expenses incurred for both the Board and staff. She computed the numbers and came up with two different courses of action.

#### **Option 1.) Two quarterly Board meetings in Harrisburg, two quarterly Board meetings rotated regionally throughout the Commonwealth (Status Quo).**

Staff travel in 2011 to various Board meetings and other work related-functions totaled \$514.85, including state vehicle costs of \$171.41. (Bureau of Training Services no longer had a state vehicle assigned to the unit after July 1, 2011, resulting in a decrease in state vehicle costs.) Board members' travel expenses totaled \$2,116.98. Conference room rental fees have been approximately \$550 per meeting. **The total yearly average approximate cost for Option 1 would be \$3,731.83.**

#### **Option 2.) All four quarterly Board meetings in Harrisburg.**

If the quarterly Board meetings were all held in Harrisburg, the approximate average travel costs for all Board members would be \$2,105.34 for one meeting. There would be no travel-related expenses for PCCD Staff under this option. **The total yearly average approximate cost for Option 2 would be \$8,421.36.**

Ms. Leffler noted that there were an average of ten constables in attendance at Board meetings held in Harrisburg in 2010 and 2011.

Ms. Leffler said that, at the last Board meeting, Board members talked about the possibility of teleconferencing and asked for an opinion from PCCD Legal Counsel. Ms. Megon Castor, PCCD Assistant Legal Counsel, said Ms. Mary Taylor, PCCD Chief Counsel, did some research and spoke with some other members of the Governor's Office of General Counsel regarding the issue of whether Board members are permitted to participate and vote at meetings by teleconference. It was determined that it is legal to have meetings and vote via speaker phone.

Chairman Opiela asked what has changed in the law in the last four years, because when he brought this up four years ago, he was told it is not legal. Ms. Castor said she doesn't think anything has changed in the law. A court case in 1992 stated that participation of members of a Board by telephone conference call using speaker phone in a meeting, which was open to the public and convened for the purpose of deliberating agency business and taking official action, did not violate The Sunshine Act. She said perhaps some Boards have decided they did not want to proceed with meetings in that way in order to keep the public involved. She said Boards have to make sure the people present at the meeting know who is speaking and can hear the person speaking. Technology

is wonderful, but there could be a lot of problems with it; so, while you can do it, whether you should do it is the question.

Ms. Leffler mentioned if all of the Board meetings were held in Harrisburg at PCCD, the technology is available to do teleconferencing, but there are some other issues to consider if teleconferencing were held in other places. Constable Sokoloff mentioned we still would need to have meetings somewhere where the public can attend.

Mr. Numer said in answer to Chairman Opiela's question about what changed in the law, there have been two things that have changed. The first thing that changed is PCCD Legal Counsel and the second thing is now we are trying to save more money. There are differences in the interpretation of the law and also there are changes in the direction of political wind. There was a desire to discourage having everyone call in for meetings and having no one except staff at the meeting location. It was seen as a perception problem.

Chairman Opiela said it is also for constables who have to travel half-way across the state to participate in Board meetings. If it is necessary, he hopes that PCCD supports the idea that constables could go to various sites to view the Board meetings. He would like to see three locations where video conferencing is set up all the time for Board meetings. People in various parts of PA could still attend the meeting, although they could be at a different location from where the video conferencing is set up for a particular meeting.

Mr. Merwine said that PCCD has used videoconferencing for various committee meetings and Commission meetings. Mr. Numer said there are some technical difficulties using video conferencing. He said after talking with IT staff, he would recommend using video conferencing to conduct the meeting at PCCD using PCCD's equipment as the base, and then IT staff can arrange or contract out with certain other locations with compatible technology. He said, if the Board uses teleconferencing, there is more flexibility; however, there could be some potential issues.

Commissioner O'Neal suggested if the Board continues to pursue having video conferencing available in different parts of the state for quarterly meetings, almost every county does video arraignments. The technology is probably much better in some of the bigger counties. She suggested maybe some of these larger counties and maybe state government offices have the technology that they use on a regular basis. The technology is there and would not require renting a hotel conference room for meetings.

Chairman Opiela agreed and said his courtroom could be one of the sites. He said he is sure that we could find a Magisterial District Judge in the Philadelphia area to be a site, too. He said it definitely could be done at minimal cost.

Constable Sokoloff asked where the Board would be if the meeting was conducted by video conference, and for whom the Board would be doing this. Chairman Opiela said this would potentially cut down expenses for the Board, it could help with more regular attendance by all Board members (depending on the sites), and it could help constables who couldn't physically be at the meeting but would otherwise want to attend the CETB meeting.

Mr. Numer said that while the equipment works great most of the time, most agencies that use video conference use it between set sites on a regular basis. When one starts talking about dialing-out and

hooking-up to other places, he strongly recommended having the actual Board meeting at PCCD, so IT staff can be there to intervene if there are problems.

Chairman Opiela said that he envisioned having three designated sites, one in Pittsburgh, one in Harrisburg at PCCD, and one in the Philadelphia area. He doesn't see AOPC having any issues with Chairman Opiela hosting one of the sessions. He said it is doable without any costs whatsoever. It would afford a lot of convenience for a lot of people.

Commissioner O'Neal said we could have a trial run with this when we have the next Harrisburg meeting to see the interest and how well it works. Ms. Leffler said the next meeting to be held in Harrisburg will be in November. She said it will give the Board and staff time to think through some of the logistics and we can see what kind of response we have from constables. She said the technology is there and we can try it to see how it works for the Board.

Chairman Opiela said he thinks it is a great idea. Constable Sokoloff said that will give us time to find satellite sites, advertise it, and see what the response is. Commissioner O'Neal said it would give us time to communicate with the constables that we are going to try this and give them the information on where the sites are that they can attend. Constable Sokoloff said the Board would still have the expense of going to Harrisburg for the meetings.

Commissioner O'Neal suggested that until this is worked out, we stay with the current Board schedule and, in November, we have a trial run in Harrisburg. Chairman Opiela asked staff to develop a trial run of this for the November Board meeting and offered his office as one of the sites. He said he would volunteer to be the Board member at the remote site. Mr. Numer cautioned the Board about needing to ensure there is a quorum of Board members. If there are issues with the connection, etc., the Board would have to either wait until the connection is re-established or continue and ratify everything at the next Board meeting. Chairman Opiela said we will try this in November and advised staff to have PCCD IT staff contact him for information.

Chairman Opiela said the next item for discussion is for the solicitor, Ms. Castor, regarding the civil CETA fee. Ms. Castor said that at the last meeting, Board member Constable Contino wanted a follow-up from counsel regarding the \$5 assessment fee in civil cases. Mary Taylor, PCCD Chief Counsel, followed up with the AOPC and they advised her that the language is clear. It is one \$5 assessment in each civil case. The only remedy would be an amendment to the statute.

Chairman Opiela said that Constable Contino was contending that in civil cases, in particular landlord/tenant cases, there are various services that a constable can perform, including serving the complaint, possession, and possibly an eviction. Constable Contino's contention was, in that scenario, the statute should be interpreted to mean there would be a \$5 charge for each of the services, totaling \$15. It would be a good thing for CETA fee collections, but that is not the interpretation. Chairman Opiela agreed with AOPC's interpretation and disagreed with Constable Contino's interpretation. He said he agreed with Constable Contino that there are some misinterpretations.

The Help Desk at AOPC has misinterpreted the civil end of it saying, if there are multiple defendants in a civil case, there is only one \$5 civil charge. This is incorrect. It is clear the statute says it should be \$5 per defendant. Some District Justice staff are taking advanced training through AOPC, and hopefully, they will get the correct interpretations on various matters.

Chairman Opiela asked if there were any questions or thoughts on the civil CETA fee. There was no further discussion on the matter.

#### **IV. Informational Items**

The next item on the agenda was **Status of Certifications Issued**, page 34 of the packet. Mr. Horst said that as of April 10, 2012, there were 1,326 constables and deputy constable currently listed as active and certified. Of these, 970 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 3,819 individuals who successfully completed basic training or the waiver examination and were certified by the Board.

The next informational item on the agenda is the **Constables' Information System Redesign Update**, page 35 of the Board packet. Ms. Leffler reported that Program staff met with the Clerk of Courts Redesign Workgroup on March 22, 2012, to discuss the re-design of the computer system that we are currently working on. It was a very productive meeting and the attendees were impressed with the proposed, prototype system.

Ms. Leffler advised that PCCD sent out surveys to 66 Clerks of Courts Offices in April and has received 29 of the surveys back so far. From those surveys, a possible 88 new computer systems users from the Clerk of Courts Offices have been identified. So far, five of the counties do not have the capability to scan documents. PCCD is anticipating that the Clerks of Courts Offices will input the constables/deputy constable's professional liability insurance information directly into the new computer system. This will eliminate the need for their offices to fax, mail, or email the insurance information. PCCD will have an approval process for insurance information before being put into the system. Terms of Offices will also be able to be entered into the new system by the Clerks of Courts Offices, as long as those offices are provided with the necessary election certificates and court orders. PCCD is trying to think of ways to be more effective and efficient in our operations in order to better assist constables/deputy constables in keeping their certifications active.

Ms. Leffler also advised that PCCD staff is working on the conversion of data from the old system into the new system. There were about 30 deputy constables in the computer system that did not have an appointing constable identified. In January, staff sent letters to all of these constables requesting information from them on their appointing constables. In the new system, it will be mandatory to have that information.

In July, Ms. Leffler will be attending the annual PA State Association of Prothonotaries and Clerk of Courts conference to provide a demonstration on the county access part of the system and get some additional feedback from them.

Chairman Opiela noted that Mr. DeFilippi left the meeting at 11:30am, so the Board could not vote on any other actions because there was no longer a quorum.

Chairman Opiela said an item that is not on the agenda that he had a question about is an update on the Request-For-Proposals for constable training delivery. Mr. Horst said it is progressing and there have not been any issues. Mr. Numer said that all regions are competitive.

## **V. Public Voice**

Chairman Opiela announced the Board would take public comments and questions at this time.

Constable Antoine Malloy said he is going to defer to the president of the Allegheny County Constables Association (ACCA), Constable Paul Bauer, to cover something he wanted to ask.

Constable Paul Bauer said he had a couple of quick points that he had previously mentioned to the Board. He said he really wants something implemented regarding the major after-effects that can occur when a constable is involved in a horrific event such as a shooting. Previously, Constable Bauer and his partner were involved in a horrific incident.

Constable Bauer said that Captain Kisthardt previously offered a representative from the PA State Police to talk to as a counselor, but what he is asking for is training to be implemented to teach constables/deputy constables on what is to be expected when they are involved in a shooting or another horrific incident.

Chairman Opiela asked Constable Bauer if he was asking to include this in the 2013 Continuing Education. Constable Bauer said, "Absolutely." When he was involved in the horrific incident, the aftermath was extremely difficult to deal with. Chairman Opiela asked staff if this is doable for 2013. Ms. Clarke said that Mr. Mellors from Penn State, the curriculum developer, is putting together a Lessons Learned subject for the 2013 Continuing Education which includes "Constable Involved Shootings." The development of the subject was based on the comments and request from Constable Bauer at a previous Board meeting. Constable Bauer said he was interviewed by Penn State. Chairman Opiela asked if staff would verify that the course being developed by Penn State includes the after effects of a constable involved shooting.

Constable Bauer's next comment was a suggestion to include in training the proper way to clear a house. He said these are the types of things that constables/deputy constables put in the comments at the end of training that seem to never get addressed. These are important issues that affect the safety and lives of constables/deputy constables. Mr. Numer said that the curriculum developer goes out and surveys and prioritizes what is important and they look at the number of available hours for training. Sometimes there is a priority that comes up that wasn't previously identified. The dilemma is how to fit everything in the number of hours we have for training.

Mr. Bauer said his last comment is about the last training he attended. He said that in the firearms portion of the training, he understands that you need more instructors; however, he said the Board is always talking about saving money, but there were instructors that didn't do anything during the entire weekend of training. There was an instructor who attended the class that had a leg in a cast and didn't do anything. The Board is always talking about money and constables are frustrated when instructors are doing nothing. He said the only thing one instructor did the entire weekend is put one set of handcuffs on.

Chairman Opiela said that he had heard this complaint already and was planning on bringing it up. Constable Bauer said it was during the defensive tactics training that the instructor was in a cast.

Constable Sokoloff said issues like this should be brought up sooner than later. She said if there are issues, PCCD should be informed of them. Chairman Opiela said that staff does monitor training as well and will be looking at these issues.

Constable Philip Dodge said that he works for two different magistrates and neither of them have a prescribed mileage that they allow to do the service. Is PCCD supposed to send something out to the magistrates to make these things consistent across the state? Chairman Opiela said the CETB is an advisory board and while some of the issues frustrate the CETB, they are things the Board does not have the authority or oversight to go to magistrates and tell them they are doing something wrong. He encouraged the constable associations, collectively, to educate the MDJs about the CETA fee. He guessed that less than 10% of MDJs even know what CETA stands for. There is discretion under the law for some things, but the association should collectively educate the MDJs telling them the Commonwealth requirement for various things, such as payments. As long as the individual constable is following the law, that is the protection. He doesn't think there is any discretion in the mileage paid for constable work by the MDJs, but there is nothing the Board can take action on.

Constable Dodge also asked if AOPC is obligated to take out the \$5 CETA fee. Chairman Opiela said it would be easier if the CETA field was mandatory in the computer system, so they couldn't override it. He said the trainer for the new MDJ system told him that, in most counties, there are misinterpretations of what the CETA fee is. Many think it is a fee paid to the constable, but it is not.

Constable Rick Bayles said where he goes to class for updates in the Edinboro area, there are a lot of constables/deputy constables who are retired and only do civil process. He said he agrees with the earlier suggestion that they need training on how to sweep a house, but the problem is that a lot of these individuals do not participate in defensive tactics. He does constable work full-time and he thinks maybe, for the constables who do not wish to participate, there should be a different class.

Chairman Opiela said possibly staff could look at doing breakout sessions with OC/Baton as a way of dealing with costs. Instead of saying training is optional, maybe the program could have a menu-driven splitting of training. Constables could select which training topics they wish to attend in breakout sessions.

Constable Malloy commented that the problem with optional training is having the time to attend it, since they already have to take out six days to attend mandatory training. If it was incorporated in the mandatory continuing education training, he would gladly take whatever training is being offered. He said house-sweeping is already a part of the advanced firearms training, so maybe it could be included in the annual firearms training. He said that, in Allegheny County, some magistrates are not allowing two constables on warrant services, and it is a safety issue. He said that two constables are becoming more necessary for evictions, etc. He understands the CETB is an advisory board, but would like an opinion or something in writing to go out to the magistrates saying that these issues are safety concerns. Maybe the way things are done needs to be re-evaluated going forward. He said that the discretion for serving warrants with two constables is left up to the magistrates, but the discretion should be left to the constables on whether two constables are needed.

Chairman Opiela asked if PCCD's solicitor could look into whether the Board can give this type of opinion. He suspects the answer will be no, but he said that somewhere in the training we probably are indirectly giving an opinion on this. The answer will probably come whenever a handbook is in place.

Mr. Numer said the same type of issue arose in the Deputy Sheriffs' Program. In training, they were teaching having two deputies in certain circumstances, but then deputies would come back and say that their particular sheriff does not allow two deputies. The Deputy Sheriffs' Board could not intervene. The Program can teach what they feel is the standard, but that is all. Chairman Opiela said he thinks a constable association needs to educate district magistrates regarding these safety concerns. Present the facts to the magistrate, and if he/she still wants to play hardball, it is on him/her. Then, the individual constable needs to make a decision on whether he/she wants to continue working for a particular district magistrate with those guidelines. Constable Sokoloff said a lot of this comes down to the county. The county makes a blanket decision on the way constables will be paid.

Chairman Opiela said again it comes down to constables needing a statewide constable association to make changes. He thinks the individual constable associations need to put their differences aside and work together to make changes and accomplish things.

Constable David Corle said OC/Baton certification is a lifetime certification and one should not have to get re-certified. Mr. Horst advised that Monadnock does not agree with that statement. Chairman Opiela said it is a perishable skill. Constable Corle also said that he is an OC instructor, so if that was added to a class, he would sit it out because he is an instructor and would not want to be taught a different way.

Chairman Opiela said he liked the idea of having breakout sessions. Constable Sokoloff said, at one point, elective-style training was talked-about, but it did not go any further. Chairman Opiela said that we need to find out what portion we have to absolutely provide every year and what portions overlap and could be broken down into breakout sessions.

Constable Corle asked about the CETA fee in criminal cases. Chairman Opiela said the fee is one fee per docket in criminal cases. He asked if there was a way to have that changed to every time a warrant goes out. Chairman Opiela advised to him to contact the constable associations and have them get together as one collective body and have the legislature change it.

Constable Paul Schlosser said he has an issue with trying to get information from JNET about an individual's criminal record that constables do not know about when they go to serve a warrant. He thought the CETB would help get this information for them. Chairman Opiela said that is a misconception, because the CETB is an advisory board for education and training. He thinks it is a necessary tool for constables/deputy constables to do their jobs, but the CETB cannot assist in this. Chairman Opiela restated the need for the constable associations to collectively get together to make changes. Chairman Opiela also said that AOPC is also a resource and mentioned the phone application "Docket in Your Pocket" (which was previously identified as a resource in a training bulletin). He also said MDJs need to be educated by their constables to help them understand exactly what constables have to do every day as a part of their duties.

Deputy Constable Mike Vogel commended the Board, PCCD, and Mike Marcantino for all of their efforts. He has seen the change from constables being lackadaisical to professional. He asked for regulatory relief in the sense of firearm certifications for Act 120 officers. He asked if there is any way to re-instate the firearms waivers for current, certified Act 120 trained police officers, if the MPOETC instructor would adhere to the exact, same standards as in the constables' firearms training.

Deputy Constable Vogel said he already qualifies under MPOETC twice a year, so why does he have to take the constables' annual firearms training as well? Chairman Opiela said the CETB and PCCD wanted uniformity in firearms training and there was a reliability issue. Mr. Horst said MPOETC's firearms re-certification training is not as uniform as the constables' firearms training. He said research identified 41 law enforcement officers affected by the elimination of the firearms waiver. Mr. Horst said the issue was the exposure to liability by relying on another agency's training program, as opposed to the Board certifying constables to carry a firearm through its own training program.

Chairman Opiela gave an example that he recently heard a firearms training complaint regarding the two-part scoring on the range. The individual failed although he did not miss any shots in the first phase of the scoring, but still ended up failing the qualification course. He doesn't know if these same standards are used for other PA law enforcement firearms training.

Deputy Constable Vogel commented that he agrees with mixing-up some of the training, maybe having four hours of defensive tactics. He said they are independent contractors and it is a liability if he gets injured at constable training. He would not be able to go back to his primary job and receive any compensation. Some of the training is redundant, specifically mechanics of arrest and defensive tactics. Since so many people waive-out of the hands-on training, maybe different types of training could be offered that would benefit constables. He thinks the training can be done in sixteen hours instead of twenty hours. He also said that the Allegheny County Housing Authority hosts constable training and does not charge the training provider for the use of their facility.

Mike Marcantino, IUP, advised they had a situation where there were two training classes scheduled at Pitt when Pitt was having bomb threats, so it was decided to move these trainings. He thanked Constable Bauer and the constable association who helped with notifying some of the constables and deputy constables about the location change.

Mr. Marcantino clarified that the paperwork for the defensive tactics training class is overwhelming. For each constable, a proficiency sheet is completed with twenty-two proficiencies listed. It sounds easy, but some constables do some of the practical exercises and waive-out of others. All of this information is recorded by instructors. The instructor that had his leg in a cast is one of his best paperwork instructors. The training provider never knows how many constables are going to waive-out of the hands-on part of the training. If it is a big class, five instructors are needed to meet the student-to-instructor ratio requirements.

Chairman Opiela said the problem from the constables' perspective is that this instructor was not able to participate in teaching because of his injuries. It is a concern. He said this should not be a regular practice; it should be an exception to the rule.

Constable Bauer said that constables opt-out of the training because it is easier to sit-out, and it is totally wrong. He said it needs to be addressed. Chairman Opiela feels that constables have to be able to protect themselves and when he participated in the constable defensive tactics training, he did not feel like it was something that would cause any injury to him.

Constable Al Dancisin said that he thought the class that dealt with how to deal with people from foreign countries (cultural diversity) was a waste of time. He felt those four hours of training could have been much better used for something such as OC or expandable baton training.

Constable Sokoloff said she recently attended continuing education training as well, and she feels that it comes down to who is teaching the class. She thought the cultural diversity class that she attended was really good.

Constable Dancisin said he understands that constables in the eastern side of the state do different things than constables in the western part of the state. He said he looks forward to attending the training and would like to see the mileage compensation for constables to attend training come back.

Constable Bayles asked if there a waiver if a constable has Act 235 training. Chairman Opiela said, "No." Mr. Numer said the CETB cannot legally accept that liability.

## **VI. Adjournment**

Chairman Opiela asked for a motion to adjourn the meeting. Chairman Opiela adjourned the meeting at 12:35 p.m. The next Board meeting will be held August 9, 2012, at 10 a.m. in the West Chester area, location to be determined.