

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

**Minutes of the May 26, 2011 Meeting**

**Members Present**

Judge Richard Opiela, Allegheny Co, MDJ, Chairman  
Fred Contino, Constable, Delaware County  
A.R. DeFilippi, Court Administrator, Beaver County  
Julie Sokoloff, Constable, Montgomery County  
Harry Walsh, Constable, Allegheny County  
Captain Adam Kisthardt, Pennsylvania State Police

**Commission Staff Present**

Donald Horst  
Sherry Leffler  
Kathy Clarke  
Mary Taylor, PCCD Chief Counsel

**Members Absent**

Honorable Teresa O'Neal, Juniata County Commissioner

**Visitors**

Frank DeThomas, Constable, PA Fraternal Order of Constables (PAFOC) SW Regional Director  
Barry Betz, Constable, Lehigh County  
Thomas Rushnock, Constable, Westmoreland County, PA Fraternal Order of Constables Secretary  
Randy Canella, Constable, Allegheny County, PAFOC, Allegheny County Constables Association  
Albert Dancisin, Constable, Allegheny County, PAFOC, Allegheny County Constables Association  
Paul Bauer, Constable, Allegheny County, PAFOC, Allegheny County Constables Association Pres.  
Ted Mellors, Penn State University  
Jed Friend, Penn State University  
Duane Shaffer, Constable, Armstrong County, PAFOC  
Noel Carson, Constable, Westmoreland County, PAFOC  
Glenn Wolfgang, Constable, Westmoreland County  
Mike Marcantino, Indiana University  
Dennis Giever, Indiana University  
Ron McAnulty, Indiana University  
Antione Malloy, Constable, Allegheny County  
William Hambrick, Constable, PAFOC, Allegheny County Constables Association

**I. Call to Order**

The Constables' Education and Training Board (Board) meeting was held at 10:00 a.m. on Thursday, May 16, 2011, at the Doubletree, 101 Mall Boulevard, Monroeville, Pennsylvania.

The Honorable Richard Opiela, Chairman, called the meeting to order at 10:00 am and asked all to join him in the Pledge of Allegiance. Chairman Opiela stated it's been about two years since the Board has had a meeting in Pittsburgh. Several years ago the Board made a decision to rotate the meetings around the state, having two in Harrisburg, one in the east, and one in the west. The last

one or two years, the west meeting was held in State College at the Instructor Updates. Chairman Opiela stated Western PA and Eastern PA are fairly represented by Board members at all the meetings. Chairman Opiela welcomed the audience to the meeting and introduced the newest Board member, Captain Adam Kisthardt, Pennsylvania State Police who replaced retired Captain Rodney Manning. Captain Adam Kisthardt introduced himself as a captain with the PA State Police with 22 years of service. His most recent assignment was in PSP's Communications Bureau where he oversaw the PSP's CLEAN and NCIC's connection as well as having many other PSP Communication-related duties. He is looking forward to working with the Board and doing whatever he can to make constables safer in Pennsylvania.

Chairman Opiela next introduced and welcomed PCCD's new Chief Legal Counsel Mary Taylor. Board members and staff then introduced themselves to the audience.

## **II. Action Items**

Chairman Opiela said there are two sets of minutes as action items, the first one being the **amended minutes from the November 18, 2010, Meeting**, and the second set of minutes is from the **February 11, 2011, Meeting**. Chairman Opiela asked if all of the Board members (except Captain Kisthardt) had reviewed the minutes. Constable Sokoloff made a motion to accept both sets of meeting minutes as provided. Constable Walsh seconded the motion. Constable Contino had a concern regarding the February 11, 2011 minutes. He wanted to clarify the second line on Page 5 where it says, "Constable Contino asked why aren't the constable fees added when the warrants are reissued?" Constable Contino said he is aware these fees are added, but the word CETA is missing. It should say Constable CETA fees. Chairman Opiela said he thinks people reading the minutes would know they are referring to Constable CETA fees because, on Page 4, it is referencing the CETA fee.

The next question Constable Contino had is concerning the dialog between Mr. Pfau and Constable Contino beginning in the last paragraph on Page 13, where they are talking about constables in the Western part of the State, etc. Constable Contino wants to clarify he is concerned about the training needs of constables across the state, not just the constables in eastern PA. He is trying to get a hybrid put in place, instead of individual course subjects on Force Continuum, Ethics, and Defensive Tactics. These subjects should somehow be combined together in a course, and include civil and criminal law. He has spoken with Penn State regarding this. Constable Contino did not want it to appear he has a special interest in Delaware County. Chairman Opiela said he did not think it appeared that way when he read the minutes. He was hopeful Mr. Mellors is developing searchable curriculum where we teach modules independently and then the modules are placed in a searchable curriculum database. Constables could view past curriculum that is continually updated and is accessible and, if a constable is working in an area that predominantly does a certain type of work, he can go to this system and search for the information he is looking for. An issue Chairman Opiela recently had in Allegheny County is, "When is it appropriate for a Constable to serve a warrant (especially if it is a traffic warrant) after 10pm?" This question came back to Chairman Opiela on what does the training say about this. He said it would be nice if he could put in a few words in a database and find curriculum relating to this. Instead, he called John Pfau to get the information. Chairman Opiela says this information should be instantly accessible.

Constable Contino said the force continuum should be integrated into civil process, transport process and service of warrants. If classes were held in a classroom (with technology we already paid for),

which show an arrest going down, an execution going down, or a transport going down, then the students would sit down and critique the scenarios. There was a previous continuing education module held, which was scenario-based involving special needs and how to handle different situations. There was interaction among all of the students in the class and this was much better than just being taught the information. Constable Contino stated this type of scenario-based training is really good training. He also pointed out there are only 20 hours of continuing education and the constables do not want any more training hours.

Mr. Horst said the acronym "CETA," will be inserted between the words "constable" and "fees," on Page 5 of the February meeting minutes, in order to clarify Constable Contino's question. He also said the first sentence on Page 14 can be stricken from the record. Mr. Horst asked if Constable Contino wanted the minutes brought back at the next meeting for a vote, or could staff simply make changes to the permanent record? Constable Contino said staff can make those changes to the permanent record. Chairman Opiela asked if there were any other questions on the November 18<sup>th</sup> or February 11<sup>th</sup> meeting minutes. There were none. Chairman Opiela called for a vote.

VOTING AYE: Opiela, Contino, DeFilippi, Sokoloff, Kisthardt, 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 May 26, 2011**, Pages 35-38 in the packet. Chairman Opiela turned the floor over to Mr. Horst. He stated Ms. Norma Hartman, PCCD fiscal staff, could not attend the meeting. She had prepared the report of the Financial Statement for Fiscal Year 2010-2011, for the period ending March 31, 2011. Mr. Horst said the financial picture has improved from the beginning of the year, because of the return of approximately \$2.3 million dollars of committed but unexpended funds from our various training contracts. There was a balance from the previous year of \$6,918,158.17. With fee collections, the total balance was \$9,118,158.17. Subtracting total expenditures and commitments (six contracts retired, six contracts added), left a balance of \$1,212,054.50.

Mr. Horst commended the contractors for their fiscal restraint. He quoted an e-mail from Ms. Hartman, wherein she stated, since the first of the year, Harrisburg Area Community College did not spend \$404,000 of committed training funds; Indiana University of Pennsylvania (IUP), the Northwest training provider, \$466,000; IUP-Southwest, \$765,000; Lackawanna College, \$388,000; Mansfield University, \$118,000. (later, Temple University, \$167,000.) Unspent, committed funds are added back to the fund balance. Thus, the negative balance, as of 12/31/10, was reversed to a positive balance, as of March 31, 2011.

Chairman Opiela stated, for the newest Board Member's understanding, contracts generally run for two years and have to show the expenditures, although we do not show the projected quarterly income from the CETA fees. The main concerns have been whether the CETA fees are being collected correctly, and ways to cut and reduce expenditures without sacrificing training for the constables. It is critical constables have the knowledge and education to do their work.

Mr. Horst continued with the Constable Fee Collections (CETA) on Page 36 of the packet. The numbers reported were three quarters of 2010. Receipts have not been moving - a little over \$2

million dollars collected per fiscal year. On Page 38 of the packet, purchase order statuses as of 3/31/11 were shown. There were six contracts that ended 12/31/10. One contract will end 6/30/2012; six contracts will end 12/31/2012. A motion was made by Mr. DeFilippi to accept the financial report prepared by Norma Hartman. The motion was seconded by Constable Julie Sokoloff. Chairman Opiela called for a vote.

VOTING AYE: Opiela, Contino, DeFilippi, Kisthardt, Sokoloff and Walsh

VOTING NAY: None

ABSTAINING: None

The motion carried.

Chairman Opiela moved to the next action item on the agenda, the **2011 Board Meeting Schedule**. The next meeting is scheduled for August 4, 2011, in Hazelton. Ms. Leffler stated the location has not been determined. It will probably be held at the Ramada Inn in Hazelton, but there is not a signed contract in place. The following meeting will be held November 17, 2011, in Harrisburg. Chairman Opiela asked the Board members if there were any conflicts with these dates. No conflicts were indicated.

Chairman Opiela moved to the next action item on the agenda, **Approval of Board Regulations, Attachment A**. Ms. Leffler summarized the attachment to the Board Regulation, changes that have been discussed over the last several years. Also, issues were brought to the Redesign Workgroup, which was formed because PCCD is re-designing its computer system used for constable training. While the workgroup met, several issues were brought up that needed to be addressed. The Workgroup included four members of the Board. These items have been brought to the Board for approval. Ms. Leffler asked if there were any questions from the Board. No one had any questions.

Once approved by the Board, the regulation will go before the Pennsylvania Commission on Crime and Delinquency (PCCD) at their June 14, 2011, meeting. After PCCD approval, Constable Program staff will start the approval process with the Independent Regulatory Review Commission (IRRC). The IRRC process is a lengthy one. It will take a year and a half to two years to put the regulation changes into place. Staff will adopt these changes as Board Policy, implementing these changes prior to being reflected in regulation. Staff is hopeful that on January 1, 2012, implementation of the changes will begin. It will be time consuming for staff because, with the computer system still being re-designed, many things will have to be processed manually. Staff will create a timeline of when the policy changes can be implemented. The regulation changes will be advertised to the constables.

Ms. Leffler highlighted some of the proposed regulation changes are already Board Policy. For example, if a constable has a lapse in certification of five years or more, the constable will be required to attend basic training. Also, 10MM caliber firearms will be eliminated. There are only 23 constables who carry 10MM caliber weapon. Another proposed regulation is, if a constable has three-year lapse of certification for firearms, he or she will be required to go back to the 40-Hour Basic Firearms Training. Mr. Horst explained marksmanship and the proper handling of firearms are perishable skills.

Chairman Opiela asked if Board members have looked at the Cost and Impact Analysis on the Regulatory Analysis Form. He asked Ms. Leffler to summarize this information for the Board.

Ms. Leffler said the Regulatory Analysis Form gets reviewed by the Governor's Policy Office and the Governor's Budget Office, so we have to show how the changes will impact the fund. She reviewed how the attendance policy will require the constable to bear financial responsibility for subsequent training courses, after having failed a course or failed to attend without providing timely notification. She also reviewed how the elimination of firearms waivers will increase the costs associated with firearms training.

On Page 7, the savings reflected are from constables who were no-shows and are now required to pay to attend training. The increased costs are from eliminating law enforcement firearms waivers. The beginning balance, revenue, expenditures, and ending balance for the Constables' Education and Training Board for the past three years are reflected on the form as well. Ms. Leffler asked the Board if there were any questions regarding the costs.

Chairman Opiela added there can be mitigating circumstances as to why a constable cannot attend class. The no-call/no-shows are very costly to the PCCD and the schools. The changes will ultimately make a more professional system. Ms. Leffler added, in 2010, there were 21 no-shows for the annual firearms classes. This is costly to the training delivery contractors, because spots were held for these individuals and training ammunition was made available for them. Mr. Horst added this also affects individuals who would have wanted to register for a particular training, but could not register because spots were held for no-shows. There were also 26 no-shows for basic training courses in 2010, which is also not cost-effective.

Constable Contino asked Ms. Leffler if, in the new system, an individual would not be able to register for more than one class of the same type of training. Ms. Leffler said that was correct. Mr. Horst advised a constable can still withdraw from one class and enroll in another class.

Constable Sokoloff asked about the penalties associated with this. Ms. Leffler advised the change was the individual has to pay two weeks prior to the class start date directly to PCCD. PCCD staff would remove the individual from the class, if it did not receive payment. This would occur if they want to attend training in the same calendar year they were a no-show.

Chairman Opiela asked if there were any additional questions from the Board or staff. An audience member, Constable Frank DeThomas, asked if anything was put in the regulation regarding the clerk of court's notifying PCCD about liability insurance. Ms. Leffler replied this is already covered in statute and PCCD cannot change legislation. Constable DeThomas related a report about a constable who registered for a firearms class, received a confirmation for the firearms class, showed up for the class, and then found he could not take the class because PCCD did not have current liability insurance on file for the constable. Ms. Leffler said this comes up when there is a delay in the time it takes the clerk of court's office to supply the liability insurance information to PCCD. She suggested going to the clerk of court's office to remedy late insurance filing. She also said there is one county who will only mail the liability insurance to PCCD. PCCD will not accept insurance information directly from the individual constable, because statute states every constable and deputy constable must file with the clerk of courts that he has, currently in force, a policy of professional liability insurance. Chairman Opiela was hopeful, with the new system and software, counties will have access to our system, so they could directly input information like liability insurance.

Another constable from the audience asked if there was a time period for withdrawing from the class. Chairman Opiela said the time period is generally seven days to withdraw from the class. Ms. Leffler

added the schools work with the constable if there are mitigating circumstances as to why he cannot attend the class.

Mr. Mike Marcantino, IUP training provider, said he has received calls from constables in various situations who had to cancel from class. PCCD has never denied these if mitigating circumstances were involved. Also, regarding the firearms courses, if a constable's liability insurance has expired, Mr. Marcantino calls the constables five days before the class start date to remind them they need to file their liability insurance before they can attend the firearms class. Ms. Leffler advised the schools do receive an alert when an individual no longer meets the eligibility requirements to attend a class. In the future, when the clerks of courts offices have access to the system, they will be able to input the liability insurance directly into the system.

Chairman Opiela stated he is working with a state-level committee recommending certain requirements for counties regarding liability insurance.

Chairman Opiela asked if there was a motion to adopt **Attachment A, Board Regulation** for the CETB recommending it to PCCD for their June 14<sup>th</sup> Commission meeting. A motion was made by Constable Contino to approve **Attachment A** and the motion was seconded by Captain Adam Kisthardt. Chairman Opiela called for a roll call vote.

ROLL CALL VOTE:

VOTING AYE: Kisthardt, DeFilippi, Contino, Sokoloff, Walsh, and Opiela

VOTING NAY: None

ABSTAINING: None

The motion carried.

The next action item on the agenda is the **Legal Reference Guides**. Chairman Opiela turned the floor over to Mr. Horst. Mr. Horst stated Fry Communications, Inc., had been printing the guides for PCCD since 2001. The supply of the guides, on hand, was exhausted in 2010. The old edition had been amended many times over the years. Fry proposed a re-write of the entire publication instead of trying to amend it again. Fry's proposal for a new paper and ink edition was costly.

Mr. Horst contacted the Commonwealth's Department of General Services (DGS) PA Publisher print shop, and KB Offset Printing, Inc., the company holding the state contract for printed materials produced outside of DGS. Both refused the job, citing the amount of research and development required. Fry had always done all of the research and development themselves, in addition to the actual printing. Mr. Horst obtained another quote from a private printing company who was willing to do the work, but their quote was higher than Fry's. He then asked Penn State-Fayette to give an estimate for an electronic version of the Legal Reference Guide. Penn State provided an estimate of costs for developing an electronic CD/DVD-based alternative to the printed Constables' Legal Reference Guide.

Mr. Ted Mellors, Penn State-Fayette, set up a demonstration of how the legal reference guide would look if it was put on a CD/DVD. It would be an auto-run CD/DVD. For demonstration purposes, not everything was live. It showed what would be available to use. From the main page, it would have all of the titles of the statutes listed. The user would be able to press Control and F in order to search. It would find any documents with those search terms in it. There would also be a link for a master

search of all documents on the DVD. Ms. Leffler asked Mr. Mellors was asked if this would be provided on an annual basis or as changes are made to the legislation. Mr. Mellors said he would probably recommend annually. It would have a section with legal updates each year.

Constable Contino asked Mr. Mellors if there was any way to have a link for a smart phone.

Mr. Mellors said he would have to research this. Chairman Opiela said it would be really nice if it could be linked to the course modules as well. Mr. Mellors said all the curriculum is currently on CD's, but it will take some time to index this information.

Ms. Leffler asked if any of the constables on the Board saw a need to include case law, as well as statutory law. Constable Contino advised he would have his attorney look up any case law he would need. He also said constables go over case law in continuing education.

Constable Contino said he carries the reference guide with him constantly, but the cost of the printed guide is prohibitive. He thinks the CD is great idea, although he was initially opposed to it.

Mr. Horst said there would be considerable cost savings involved. Chairman Opiela said it would also be a better mechanism for constables to find the information they need.

Constable Duane Shaffer from the audience suggested the reference guide be made available for to download for free. Then the constable could burn it on a DVD or CD. Mr. Horst stated the research would still have to be done. Ms. Leffler advised hard copies of the guide are still available for purchase from Westlaw or Gould's, if a constable would like to purchase them. Constable Shaffer said it is difficult to find information on the Internet regarding the books.

Constable Contino stated, for research, he simply goes to AOPC's website, and the information shows right up. Constable Shaffer said many new constables in class do not know this. Chairman Opiela said there should be class time dedicated for the use of CDs. Chairman Opiela asked Mr. Mellors if the estimate of \$26,154 included copyright clearances, etc. Mr. Mellors said he would take another look at the costs.

Chairman Opiela asked if any other Board members had comments regarding the CDs. Mr. DeFilippi said it was a good idea. Captain Kisthardt advised the PA State Police went to electronic media several years ago, because of all of the printed manuals they had. The ability to search quickly for things is very useful.

Chairman Opiela asked if there was a motion to adopt the change on the Constables' Legal Reference Guides. Mr. DeFilippi made a motion. It was seconded by Constable Contino.

VOTING AYE: Kisthardt, DeFilippi, Contino, Sokoloff, Walsh, and Opiela

VOTING NAY: None

ABSTAINING: None

The motion carried.

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

**TEMPLE UNIVERSITY**

Richard Carey

New Subject Certifications

Management of Aggressive Behavior

Teresa A. Conley

New Subject Certifications

Management of Aggressive Behavior

Janis Pickell

New Subject Certifications

Management of Aggressive Behavior

Christopher Marrone

New Subject Certifications

Mechanics of Arrest

Prisoner Transport and Custody

Court Security

Christopher J. Murray

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

Chemical Aerosol

## **LACKAWANNA COLLEGE**

Willard M. Oliphant

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

William J. Wagner

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

## **MANSFIELD UNIVERSITY**

George Wheeler

New Subject Certifications

Role of Constable in Justice System

Professional Development

Use of Force

## HARRISBURG AREA COMMUNITY COLLEGE

Marlene Jarbeck-Sherwin

New Subject Certifications  
Role of Constable in Justice System  
Professional Development  
Criminal Law and Process  
Use of Force  
Defensive Tactics  
Mechanics of Arrest  
Prisoner Transport and Custody  
Court Security  
Crisis Intervention

Vanessa Adler

New Subject Certifications  
Court Security  
Mechanics of Arrest

James Adams

New Subject Certifications  
Court Security  
Mechanics of Arrest

Raymond Barry

New Subject Certifications  
Court Security  
Mechanics of Arrest

Anthony Clements

New Subject Certifications  
Court Security  
Mechanics of Arrest

Rebecca Downing

New Subject Certifications  
Court Security

Harold Easter

New Subject Certifications

Court Security

John Ford

New Subject Certifications

Court Security

Mechanics of Arrest

Michael Guido

New Subject Certifications

Court Security

John Kidman

New Subject Certifications

Court Security

Mechanics of Arrest

Crisis Intervention

James Miller

New Subject Certifications

Court Security

Mechanics of Arrest

Carl Steinhart

New Subject Certifications

Court Security

Mechanics of Arrest

Timothy Stringer

New Subject Certifications

Court Security

Mark Mayberry

New Subject Certifications

Court Security

Mechanics of Arrest

Christopher J. Murray, Willard M. Oliphant, William J. Wagner, and Marlene Jarbeck-Sherwin will be new instructors for the Constables' Training Program. All the other individuals listed are already certified instructors for the Constables' Training Program. They are requesting the additional subject certifications listed above.

Mr. Horst made note of the group of applications for Harrisburg Area Community College requesting additional subject certifications. The additional subject were oversights when the instructors originally applied for Board certification. These applicants have all been teaching other subjects regularly for the Constables' Education and Training Program, and have always kept their instructor certifications current.

Staff recommended certification of each individual for all subjects listed.

Constable Sokoloff questioned George Wheeler's qualification to teach Use of Force, since he is a lawyer and District Attorney. Ms. Leffler responded he, currently, is a Use of Force instructor for Act 120 training.

Constable Walsh asked if any constables have applied to be instructors. Ms. Leffler replied applications have been received from constables who want to become instructors. Mr. Marcantino, IUP training provider, said he has six constables who, currently, are instructors for IUP. Ms. Leffler said constables are encouraged to apply to become instructors. Constable Contino also pointed out we have advertised in training bulletins for constables who want to become instructors. Constable Walsh stated he has never had a constable for an instructor. Ms. Leffler said the instructor application can be obtained from any of the training contractors. Individuals would apply to one of the training contractors in order to become a certified instructor in the Constable Program.

A constable from the audience said he inquired about becoming an instructor at one time and was told he would need to attend a week's worth of training at his own expense to become an instructor. Mr. Horst stated, in 2001-2003, PCCD offered a week-long, tuition-free instructor development program, specifically tailored for constables who had lots of practical experience working as constables, but who did not have any teaching experience. After the week-long training session, the constables would assist certified instructors at one of the training delivery schools with a certified instructor as his or her mentor. After the mentoring period, the potential constable instructor was presented to the Board for full instructor certification. Over the three years, the program produced several certified instructors. Eventually, however, the program was dropped due to lack of interest.

Chairman Opiela asked for a motion to approve the staff recommendations for instructor certifications. Constable Sokoloff made a motion to approve the certifications. Captain Kisthardt seconded the motion. Chairman Opiela called for a vote.

VOTING AYE: Opiela, Contino, DeFilippi, Kisthardt, Sokoloff and Walsh

VOTING NAY: None

ABSTAINING: None

The motion carried.

A constable spoke up and asked how many instructors are in the program. Mr. Horst stated, statewide, there are about 125 certified instructors. Most are employed part-time by the training contractors, on an as-needed, hourly basis.

### III. Discussion Items

Chairman Opiela said before going to the next item on the agenda, **Chester County Update**, he would like to discuss Old Business regarding the request from Constable Contino along with other Board members for a legal opinion from PCCD Chief Counsel regarding the application of the CETA Fee. Is the CETA Fee to be applied per docket, or per warrant/per docket? AOPC has interpreted it to mean only one \$5 charge can be applied per docket.

Ms. Leffler advised staff had not had a chance to brief PCCD's new Chief Counsel, Mary Taylor, on this issue yet. This will be done prior to the August meeting. Ms. Leffler asked for direction from the Board as to going back to AOPC.

#### ***Background on the Application and Collection of CETA (Constables' Education and Training Act fees):***

At the February 11, 2011, CETB meeting, the following was discussed regarding the CETA fee issue:

*Chairman Opiela stated these are the issues: We need to make sure the MDJ and staff can't clear a warrant without charging the \$5 charge per warrant/docket and NOT per defendant. Or worse yet, clearing a warrant without assessing or collecting the \$5 dollar CETA fee.*

*Chairman Opiela has also said the question for PCCD Legal Counsel to look at is: "Are counties collecting CETA fees on warrants issued on **a** docket vs. **per** docket, as AOPC has interpreted it?" He has said the issue is the **interpretation** of the collection of fees. When warrants are reissued, why aren't the constable CETA fees added, if all of the county fees are added to the new warrant? Chairman Opiela said that is another question for PCCD Legal Counsel. Chairman Opiela has also said, even if this question is answered, he agrees it is frustrating that some fees are not collected and some are collected unfairly. This is a problem. However, he thought there would still be problems, even if this issue was corrected.*

Ms. Leffler proceeded with the discussion item on the agenda, **Chester County Update**. She stated, because Chester County has a constable handbook in place, the Board suggested at the last meeting to contact Chester County to find out how they do things in their county. Ms. Leffler shared information at the last meeting regarding information she received from AOPC, comparing CETA fees and server fees in counties. The spreadsheet showed Chester County CETA fees were greater than their server fees. The Board suggested staff contact the Chester County Court Administrator to find out what they are doing differently, in order to see if it is something that could possibly be implemented statewide. PCCD program staff had a video conference call with four individuals from Chester County. Trisha Norwood-Foden, the Chester County Court Administrator, stated all summary and civil filings are assessed the CETA surcharge. Constables do all civil work and a good number of transports for Chester County. Chester County staff indicated they have procedural audits in place, done at the county level, and they also incorporate basic case management procedures. Ms. Norwood-Foden indicated it was her understanding AOPC would be mandating procedural audits in the future.

Chester County has a unit called the Warrant Enforcement Bureau (WEB), which is a part of the District Attorney's Office, sanctioned by the President Judge of Chester County. The WEB unit is a centralized unit in Chester County which handles all "Triple Zero" warrants. She also stated all triple

zero warrants received the CETA surcharge. The triple zero is used only in Chester County. The sole criteria for the triple zero warrants is that they are reissued.

Ms. Norwood-Foden indicated, if multiple warrants are issued on the same docket, the CETA surcharge is only assessed once. She did not know if civil fees are collected upfront on civil cases, but she stated their constables are paid within two weeks after paperwork is served. She stated all criminal warrants are handled by the local police departments. All Chester County constables must sign a contract to receive work in Chester County: that they are going to follow the procedures in the Chester County Handbook. Ms. Leffler said, if a statewide constable handbook were developed, it would be easier to implement some of the procedures taking place in Chester County.

Constable Contino commented the Warrant Enforcement Bureau is run by a constable from Delaware County, Shawn Riley. For the majority of criminal cases that get to the Court of Common Pleas level, constables are doing the original transport. The \$5 CETA fee is subtracted off of the pay sheet when the constable submits it to the county. Constable Contino gave an example of a fee sheet. Say, it shows the total amount of \$50.50 minus the \$5 CETA fee, because the county does not pay the \$5 CETA fee to the constable, but they are supposed to be collecting it. So, it says the total amount approved is \$45.50, but the problem is we do not know if Central Collections is collecting the full amount. In Chester County, Shawn Reilly is making sure the right amount is being collected.

Constable Shaffer, from the audience, said the issue is that fee sheets are not standardized and every county is different. Ms. Leffler stated, if a statewide handbook were put in place, there would be more incentive to have a standard form. Constable Contino said, between legislation and the state committee Chairman Opiela serves on, officials are trying to make procedures that affect constables throughout the state the same.

Chairman Opiela asked if Chester County said how many warrants are in the enforcement bureau. Ms. Leffler said Chester County did not give any indication on the number of warrants. Chairman Opiela said their system may not work in counties with a higher volume of warrants. Constable Contino said, in Chester County, the President Judge got upset the constables were making a lot of money, so they took all the Non-Traffic Borough Ordinance warrants and gave them back to the police departments to serve. The police departments said they couldn't serve all those warrants. Constable Contino said, after the first month, West Chester Borough had lost \$20,000. Constable Contino further explained the Warrant Enforcement Bureau. A constable still gets work from the MDJ, but when a warrant comes back as not served, the warrant goes into triple zero status and gets put in the centralized system. A team of constables can work on them for an entire month. Chairman Opiela asked Constable Contino if the MDJs are issuing all the warrants for a particular defendant or are they issuing (say) 3 out of 10 warrants. He thinks this is where the CETA fee is getting hammered. Constable Contino said another issue is parking ordinances where multiple warrants are being issued, but the judge will throw out several of the warrants and the CETA fees are not being collected.

Chairman Opiela said one thing that is going to change is, in a lot of the local ordinance violations, there would be (say) ten citations issued resulting in ten warrants being filed. Chairman Opiela said Justice Castille likes the idea that, instead of having all of these warrants, a private criminal complaint would be filed with the various counts. This would hurt constables a little bit, but it would be a mechanism for cleaning up cases. He hoped this would not happen if there were multiple traffic violations. Multiple traffic violations are totally different from multiple ordinance violations.

Chairman Opiela said the committee is looking at all the different issues and he does not know what the ultimate resolution will be. The Chester County Court Administrator is in charge of the committee with the new fee bill. Chairman Opiela said the court administrator is aware what works for their county may not work in other counties. It is challenging for the committee to fix the system statewide.

Constable Albert Dancisin from the audience asked, "How big is Chester County and how many constables do they have?" Constable Contino said he belongs to the PA State Constables' Association and there are 60 members who are constables in Chester County. There are 102 constables in Delaware County, but only 62 belong to the association, so it's hard to say how many constables are actually in Chester County. Constable Contino said the actual size of Chester County is not nearly as big as Allegheny County. Ms. Taylor said she thought Chester County was a 3<sup>rd</sup> class county.

A constable in the audience said the reason for the question is PCCD wants to adopt a handbook for constables. Chairman Opiela clarified PCCD does not take a position regarding the handbook. PCCD's job is to educate and follow the training requirements under the law. The constable stated, before Chester County's handbook is adopted, other counties should look at having their own handbooks. Chairman Opiela said he is actually in charge of a handbook for Allegheny County. He also advised the fee bill is not a charge of the Constables' Education and Training Board.

Constable Thomas Rushnock, from the audience, asked whether it was possible to have a statewide, standardized fee bill. Chairman Opiela said it was not impossible; the legislature could pass it. He reiterated every county is different, and what may work in one county may not necessarily work in another county.

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

Chairman Opiela moved to the first informational item on the agenda, **Status of Certifications Issued**. Ms. Leffler advised, as of April 28, 2011, there were 1,369 constables and deputy constables currently listed as active and certified in Pennsylvania. Of these, 976 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 3,734 individuals who successfully completed basic training or the waiver examination and were certified by the Board.

Chairman Opiela asked PCCD staff if they can get data for the August Board meeting regarding the number of individuals who completed Basic Training in 2009 and 2010, and have dropped-off. Ms. Leffler advised staff has to track this information manually, and will try to have this information for the August meeting.

The next informational item on the agenda is **Law Enforcement Examination Update**. Mr. Horst advised these are law enforcement officers who took the waiver examination in lieu of the 80-hour Basic Training. It was the first time the new examination developed by Penn State-Fayette was offered. The waiver examination took questions from the test banks of all modules in basic training.

Constable Contino pointed out this waiver is only for the 80-hour Basic Training. There are no waivers for continuing education or firearms training. There were five applicants who were tested on March 2, 2011. Each was currently employed as municipal police officer or deputy sheriff, and was current with his training and certification. All five of the applicants passed the examination. Three have obtained certification. Two have not.

The next informational item on the agenda was the **Auditor General Audit Update**. Mr. Horst reported staff had supplied requested information to the Auditor General's office. He stated the initial report was that our accounting methods were sound. Program staff should get a complete report by around February 2012. Chairman Opiela asked if it will be a formal report or an exit report. Ms. Leffler said it was her understanding it will be a formal finding.

The next informational item on the agenda was the **Request for Proposal (RFP) Update**. Mr. Horst said the contract for curriculum development (currently held by Penn State-Fayette) will expire on June 30, 2012. The six training delivery contracts will expire on December 31, 2012. The Department of General Services has issued new guidelines for contracts. Mr. Horst will review the new guidelines and develop a timeline for the release and review of new RFPs and contract awards. Program staff will meet to determine the best possible courses of action and give an update to the Board in August.

Chairman Opiela stated Instructor Updates will be held June 8, 9, and 10 at Penn State in State College. He stated everyone on the Board has been to the Instructor Updates except for Captain Kisthardt. He explained the updates are when the instructors are given a roll-out of next year's curriculum and go through instructor expectations and an overview. He advised Captain Kisthardt he can get more information from program staff, if he is interested in attending.

Chairman Opiela said it was his understanding Mr. Mellors would provide an update on searchable curriculum at the August Board meeting. He asked Mr. Mellors to see if modules and case law could be integrated in a manner similar to Westlaw. Westlaw has changed and now has an incredible tool that has changed legal research. Chairman Opiela thinks constables need a program similar to this to reference the law, training modules, American Law Reports, and the different places they can go to get information.

Chairman Opiela stated the next CETB meeting will be held August 4, 2011 in Hazleton.

## **V. Public Voice**

Chairman Opiela announced the Board would take additional public comment and questions. Constable Paul Bauer advised he and his partner were involved in a shooting in 2006 and had nobody to talk to. He thought constables need to have somebody to talk when situations like this occur. He felt nobody wanted to address it and phone calls were never returned. It is an important issue that needs to be focused on if an event like this occurs in the future. He said he was concerned for other constables who may face similar circumstances and he felt there should be someone to talk to.

Mr. Mellors advised he spent about four hours interviewing Mr. Bauer and his partner and received great testimony from them for a Lessons Learned module. It will include videos and hard, short and long term truths. This Lessons Learned module will be released in 2013.

Constable Albert Dancisin said he is Constable Bauer's partner and every police agency has a support unit if a situation occurs. As independent contractors, constables know they are on their own. There needs to be someone to say they understand what happened to them and this is generally what happens after a shooting or when another dangerous situation occurs. There should be training on what may happen after a dangerous situation occurs. Constable Contino said he would go to the local police department to receive guidance. Constable Contino said he remembers a course from years ago called, "After the Shooting" and it included the types of things Constable Bauer brought up. Constable Bauer concluded by saying there are too many constables out there who have never been in a negative situation and they need to wake up to the realities that could occur.

Mr. Mellors said a four-hour course is being developed for 2013 on the constable shootings (two hours on this shooting and two hours on a shooting that occurred in Harrisburg). The issues brought up by Constable Bauer and Constable Dancisin today will be addressed in the course being developed.

Chairman Opiela again suggested the benefits of a database with prior curriculum that constables could look up and be continually available to all constables.

Constable Frank DeThomas stated he has been a constable for 22 years and does not remember training such as, "After the Shooting." Also, regarding the CETA fee, he felt it should be on every warrant, not just one docket number. They have multiple warrants on the same docket number. Chairman Opiela said we are trying to get an interpretation from the Board's perspective on this. Constable DeThomas said constables are being taught the same thing across the state about fees, although it is different across the state. Constable Contino stated he has never been taught about the fee bill. Constable DeThomas said it is in the basic training curriculum.

Constable Contino mentioned he had spoken to Mr. Horst, and PCCD should be able to put a link to the PA Code website on PCCD's website.

Constable Shaffer again mentioned there should be standardization throughout the state. He said they have district magistrates who will not approve two constables to go on calls. He said this needs to be addressed at a PCCD or a statewide level. They have no idea what type of situation they are going into.

Chairman Opiela said Constable Shaffer's point is well-taken. Chairman Opiela has made the argument among his colleagues about the number of people who have been charged with heinous crimes who are also driving with a suspended license, may have unpaid parking citations, etc. Chairman Opiela said this is the time for constables to put their differences aside and join together throughout PA to see what can be agreed upon from a state-wide perspective so progress can be made.

Constable Antione Malloy stated he has been a constable for 17 years and has had positive interactions with PCCD regarding the training. He had a question. Could there possibly be a disciplinary review board for constables; would there ever be a body which would review what constables do? Chairman Opiela stated it might be part of new legislation, but it is not something the CETB could do under current statute.

Constable Noel Carson had a question about the court security module in training he attended.

He said state law mandates there are supposed to be lock boxes in court facilities. Constable Carson's concern is the information being taught in class is not what state law says and they are not being taught what to do in situations regarding weapons.

Constable DeThomas stated the Court Administrator in Monroe County ruled that, on Election Day, they were only paying certified constables to work the polls, because someone had read it in Act 49. Ms. Leffler said there are constables who only work the polls. It is not required a constable be certified. Ms. Leffler believed the county did end up paying the non-certified constables. Constable Sokoloff said the law regarding Election Day is a very gray area.

Mike Marcantino, IUP training contractor, said Captain Kisthardt is a great addition to the CETB. He worked with Captain Kisthardt for several years and he not only knows training, but he also recognizes the value of constables in the criminal justice system.

Captain Kisthardt advised the PSP has an assistance program that helps troopers in difficult situations. If there is a shooting incident, they also assist other law enforcement. If a situation would occur, although he cannot make any promises, he would do his best to see if PSP's individual could assist the constable involved.

## **VI. Adjournment**

Constable Sokoloff made a motion to adjourn. Constable Walsh seconded the motion. Chairman Opiela adjourned the meeting at 12:20 p.m.