

**JOINT STATE  
GOVERNMENT COMMISSION**  
General Assembly of the Commonwealth of Pennsylvania

**CONSTABLES IN PENNSYLVANIA:  
PROPOSED STATUTORY REFORMS**

**APRIL 2014**



JOINT STATE GOVERNMENT COMMISSION  
*Serving the Pennsylvania General Assembly Since 1937*

---

The Joint State Government Commission was created by the act of July 1, 1937 (P.L.2460, No.459), as amended, and serves as the primary and central non-partisan, bicameral research and policy development agency for the General Assembly of Pennsylvania.

---

## **Joint State Government Commission**

**Room 108 Finance Building  
613 North Street  
Harrisburg, PA 17120-0018**

**Telephone:** 717-787-4397

**Fax:** 717-787-7020

**E-mail:** [jntst02@legis.state.pa.us](mailto:jntst02@legis.state.pa.us)

**Website:** <http://jsg.legis.state.pa.us>

**Project Manager:** Ronald Grenoble, Assistant Counsel

**Project Staff:** Yelena Khanzhina, Public Policy Analyst  
Ted Herman, Public Policy Analyst  
Michelle Kreiger, Administrative Assistant



GENERAL ASSEMBLY OF THE COMMONWEALTH OF PENNSYLVANIA  
**JOINT STATE GOVERNMENT COMMISSION**

ROOM 108 – FINANCE BUILDING  
HARRISBURG, PA 17120

<http://jsg.legis.state.pa.us/>

**PHONE:** 717-787-4397 **FAX:** 717-787-7020

April 24, 2014

**FLORINDO J. FABRIZIO**

Chairman

**JOHN C. RAFFERTY, JR.**

Vice Chairman

**EXECUTIVE COMMITTEE**

**SENATE MEMBERS:**

**JOSEPH B. SCARNATI, III**

President Pro Tempore

**DOMINIC F. PILEGGI**

Majority Leader

**JAY COSTA**

Minority Leader

**PATRICK M. BROWNE**

Majority Whip

**ANTHONY H. WILLIAMS**

Minority Whip

**JOHN R. GORDNER**

Chair, Majority Caucus

**RICHARD A. KASUNIC**

Chair, Minority Caucus

**HOUSE MEMBERS:**

**SAMUEL H. SMITH**

Speaker

**MICHAEL C. TURZAI**

Majority Leader

**FRANK J. DERMODY**

Minority Leader

**STANLEY E. SAYLOR**

Majority Whip

**MICHAEL K. HANNA**

Minority Whip

**SANDRA J. MAJOR**

Chair, Majority Caucus

**DAN B. FRANKEL**

Chair, Minority Caucus

**ADMINISTRATIVE STAFF:**

**GLENN J. PASEWICZ**

Executive Director

**STEPHEN F. REHRER**

Counsel

To the Members of the General Assembly of Pennsylvania:

The Joint State Government Commission is pleased to present this report, *Constables in Pennsylvania: Proposed Statutory Reforms*, which was authorized by 2013 House Resolution 138. The resolution directed the Commission to study the constable system in Pennsylvania and report its findings and recommendations to the Chief Justice of the Supreme Court of Pennsylvania and the Judiciary Committee of the House of Representatives.

The report provides a historical background of constables and summarizes current statutory and relevant common law. It recommends amending the primary statute relating to constables by updating monetary amounts, repealing anachronistic sections, expanding prohibited conflicts, eliminating unnecessary distinctions among types of municipalities, clarifying some authority and providing oversight. Several recommendations should make certain constabulary practices more uniform throughout the Commonwealth.

Sincerely,

Glenn Pasewicz  
Executive Director



# TABLE OF CONTENTS

---

<b>EXECUTIVE SUMMARY .....</b>	<b>1</b>
Introduction.....	1
Summary of Key Proposals .....	2
Conflicts.....	2
Powers & Duties .....	2
Fees .....	2
Penalties & Remedies .....	3
Organizations of Report.....	3
 <b>OVERVIEW OF THE CONSTABULARY .....</b>	 <b>5</b>
History .....	5
Constables in Pennsylvania.....	6
Current Common & Statutory Law Relating to Pennsylvania’s Constabulary .....	8
Nature & Existence .....	8
Powers & Duties .....	9
Vacancy.....	11
Training.....	12
Compensation .....	14
Penalties & Remedies .....	15
Deputy Constables .....	16
Training .....	17
Constables’ Education & Training Board.....	17
Constables’ Education & Training Program.....	17
 <b>ISSUES &amp; RECOMMENDATIONS.....</b>	 <b>23</b>
Issues Covered by Statutory Recommendations.....	23
Definitions.....	23
Townships .....	24
Conflicts.....	24
Training.....	25
Powers & Duties .....	26
Compensation .....	28
Penalties & Remedies .....	29
 <b>PROPOSED AMENDMENTS TO 44 PA.C.S. ....</b>	 <b>31</b>

<b>SUPPLEMENTAL BACKGROUND INFORMATION</b> .....	45
Pennsylvania Justice Network (JNET) .....	45
Education & Training Requirements of Enforcement Officers	
within Commonwealth Agencies.....	47
Pennsylvania State Police .....	47
Municipal Police Officers .....	49
Lethal Weapons Training Act.....	49
Capitol Police Officers.....	49
Sheriffs and Deputy Sheriffs.....	50
Motor Carrier Enforcement Officers .....	50
Revenue Enforcement Agents.....	51
Department of Conservation and Natural Resources Rangers.....	51
Corrections Officers.....	52
Parole Agents .....	52
Pennsylvania House of Representatives Security Officer .....	53
Senate of Pennsylvania Security Officer .....	53
Wildlife Conservation Officers and Deputies.....	54
Waterways Conservation Officers and Deputies .....	55
<b>APPENDICES</b> .....	57
<b>Appendix A</b>	
House Resolution No. 138 .....	57
<b>Appendix B</b>	
Certified Constables By County in 2013 .....	59
<b>Appendix C</b>	
Current Constabulary Compensation.....	61
<b>Appendix D</b>	
Education & Training Requirements of Selected Enforcement Officers.....	65
<b>Appendix E</b>	
PA Statutes (excluding 44 Pa.C.S. ch.71) Referencing Constables.....	69

## EXECUTIVE SUMMARY

---

### Introduction

House Resolution No. 138 of 2013 directs “the Joint State Government Commission to study and make recommendations on the constable system in Pennsylvania” and report to Pennsylvania’s Chief Justice and the chairs of the Judiciary Committee of the House of Representatives.<sup>1</sup> The resolution expresses the General Assembly’s commitment “to meaningful reform” and focuses on increased oversight, accountability, and more uniform practices. Shortly after the resolution was adopted, the Chief Justice helpfully shared suggestions for legislative action that were recommended by a majority of a workgroup empaneled by the Supreme Court “to statutorily improve the constable system in Pennsylvania.”<sup>2</sup> HR 138 recognizes the long history of the constabulary in Pennsylvania and changes in duties, training, performance expectations and fees throughout that history.

Accordingly, Commission staff focused on the same three items: oversight, accountability (by clarifying the statute), and more uniform practices (by adding oversight and clarifying the statute). The report recommends authorizing an intragovernmental board at the county level to oversee the constabulary. It further recommends creating an executive board at the Commonwealth level, whose oversight of the constabulary would be subject to judicial review. These recommendations are intended to facilitate more accountability and more uniform practices affecting both the executive and the judiciary throughout the Commonwealth.

Aside from oversight, there are other recommended statutory amendments to increase accountability. The statutory subchapter relating to conflicts should be expanded. The statutory subchapter relating to powers and duties should be modernized by either clarifying these duties and powers or eliminating them. Other recommended amendments relating to penalties and remedies would expand judicial authority to remove constables.

The recommended amendments provide for more uniformity by eliminating unnecessary distinctions among constables elected from boroughs, cities, and townships. If a provision applied to only one type of municipality, that provision is recommended to either be repealed or extended to apply to the other types of municipalities. Recommended amendments to the subchapter relating to compensation are to clarify and update the fee structure. (Other monetary amounts throughout the statute are dated and also recommended to be updated accordingly.) As it stands now, the payor sometimes contends that the payee is improperly claiming payment, while the payee conversely contends that the payor is not complying with the statute. By clarifying the fees, accountability regarding both the payor and payee will likely increase, and this should result in more uniform practices.

---

<sup>1</sup> Appendix A, *infra* p. 57-58.

<sup>2</sup> Letter from Chief Justice Ronald D. Castille to Representatives Ronald S. Marsico & Thomas R. Caltagirone (May 16, 2013), *available at* <http://www.pacourts.us/news-and-statistics/news?Article=316>.

While studying the constabulary and considering statutory amendments, Commission staff informally consulted executive and judicial employees with relevant experience. Those consulted were constructive, thoughtful, and generous with their time. If the General Assembly decides to consider the recommended amendments, it would benefit by hearing directly from others with relevant experience. This input could be useful to assess how well the report balanced the resolution's objectives with the practicality and advisability of the recommended amendments.

### **Summary of Key Proposals<sup>3</sup>**

- Monetary amounts throughout the statute should be updated.
- Provisions affecting constables in one type of municipality and not the other two should either be repealed or extended to the other two types of municipalities.
- Required hours of training should be increased from a total of 80 to a range of 80 to 100 to allow additional topics to be covered; under the *status quo*, substitutions of one topic for another would likely have to occur to keep it at 80 hours.

### ***Conflicts***

- Prohibited conflicts relating to employment should be expanded to preclude the public office of constable from potentially being used to benefit private financial arrangements.
- Constables and magisterial district judges should be forbidden to work together when there is a close filial or household relationship between the constable and the magisterial district judge or his staff to reduce the temptation to inflate the accrual of fees.

### ***Powers & Duties***

- To promote protection and respect during encounters and interactions, constables should be required to wear a uniform or other identifiable clothing when working, thereby allowing the public to more readily and immediately recognize the constable and his authority.
- Constabulary service at elections should depend upon its utility as determined at a county level rather than mandated throughout the Commonwealth.
- Anachronistic timber law and trespassing livestock duties should be repealed from the statute.
- Arrest authority should apply to a constable regardless of the type of municipality, and his warrantless arrest authority should be specified in the statute.

### ***Fees***

- As with most other monetary amounts in the statute, the amounts payable as fees should be updated.
- To make the payment of fees more uniform, the statute should include further clarification.
- A fee claimed or arising under the circumstances of a prohibited nepotistic conflict should not be payable.

---

<sup>3</sup> The recommended statutory amendments appear *infra* pp. 31-44.



### ***Penalties & Remedies***

- To increase accountability, judicial authority to remove constables should be expanded to include malfeasance and prohibited conflicts.
- To increase accountability and make constabulary practices between the payor and payee more uniform, an intragovernmental county board should be authorized. Regardless of the formation of county boards, a Commonwealth board should be established to achieve uniform practices throughout Pennsylvania.

### **Organization of Report**

As an overview, the historical background of constables is presented and followed by a summary of the current statute, 44 Pa.C.S. ch. 71 (relating to constables), and the training program. The issues addressed by the recommended statutory amendments are then presented and followed by the recommended amendments. Further supplemental background information is then presented and followed by appendices.



# OVERVIEW OF THE CONSTABULARY

---

## History

The office of constable is among the oldest law enforcement offices still in existence. The term, constable, is derived from *comes stabuli*<sup>4</sup> and was used in the Roman Empire, mostly in Byzantium, from the fifth century A.D. to denote the head of the stables of the imperial court.<sup>5</sup> In medieval Europe, constables were high officers of state and military commanders. For example, the Constable of France had significant military and judicial powers, even holding supreme military command in the fourteenth century.<sup>6</sup> In England, the office of the constable was introduced following the Norman invasion of the British Isles in 1066.<sup>7</sup> The conquerors maintained the older Anglo-Saxon system of justice with a few modifications.<sup>8</sup> To handle local legal matters in some communities, the Normans established the Court Leet, which looked after purely local matters, in contrast to the Court of the Tourn, which handled both a wider range of and more serious cases.<sup>9</sup> The *Comes Stable* (or constable in modern English) was head of the Court Leet.<sup>10</sup> The Comes Stable was often appointed by the King, but he was also responsible to local officials, who could petition to remove him if he failed to do his job properly.<sup>11</sup> The constable's duties consisted of keeping peace and order in a specific area.<sup>12</sup>

At the origin of the office of the constable in early England, it had been connected to local government as opposed to broader entities and the constable's powers were more clearly limited than the judiciary's. Constables had law enforcement responsibilities. According to the Statute of Winchester (1285), which codified local law enforcement, constables could arrest suspicious strangers, who were to be guarded until further investigation.<sup>13</sup> A famous English judge, Henry of Bratton, pointedly stated that "it is the duty of the constable to enroll everything in order, for he has record as to the things he sees; but he cannot judge . . . . He has record as to matters of fact, not matters of judgment and law."<sup>14</sup>

---

<sup>4</sup> Officer in charge of the stable.

<sup>5</sup> Encyclopaedia Britannica, constable, <http://www.britannica.com/EBchecked/topic/133679/constable> (last visited Mar. 21, 2014).

<sup>6</sup> *Id.*

<sup>7</sup> Crime & Punishment in Can., *The History of Constables from 483 A.D. to 1800*, <http://www.russianbooks.org/crime/cph1.htm> (last visited Mar. 21, 2014).

<sup>8</sup> A History of Policing, <http://www.klis.com/allsaints/pnotes.htm> (last visited Mar. 21, 2014).

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

<sup>11</sup> *Id.*

<sup>12</sup> *Id.*

<sup>13</sup> Crime & Punishment in Can., *supra* note 7.

<sup>14</sup> Harvard L. Sch. Library, *Bracton Online—English*, <http://bracton.law.harvard.edu/cgi-bin/bracton-hilite.cgi?Unframed+English+4+136+constable> (last visited Mar. 21, 2014).

In medieval England, the title, constable, also applied to military officers commanding castles and garrisons.<sup>15</sup> “Sometimes the appointment was combined with that of a conservator (later justice) of the peace, who assisted the sheriff in enforcing the law.”<sup>16</sup> In the seventeenth century, every local area had a high constable and petty constables subordinate to him.<sup>17</sup> High constables suppressed riots and violent crimes and armed the militia that would enable them to do so while petty constables maintained order in their villages.<sup>18</sup> “The high and petty . . . constables remained the executive legal officers in counties until the County Police Acts of 1839 and 1840,” following the Metropolitan Police Act of 1829, which “allowed certain justices to establish a paid police.”<sup>19</sup> Those acts created the modern police system, and the English constable became the lowest police rank.

## Constables in Pennsylvania

The office of constable in Pennsylvania was largely based on the office of constable in England. Along with other institutions, it was brought to this country by the early English settlers. “The first Constables in the territory called Penn’s Woods began serving in . . . 1664.”<sup>20</sup> Except for one year of Dutch rule, the area that eventually became the Commonwealth of Pennsylvania operated under the Duke of York’s Laws from 1664 to 1681.<sup>21</sup> The territory now occupied by Pennsylvania, New York, and New Jersey belonged to the Duke of York then.<sup>22</sup> The Duke’s *Book of Lawes* “provided for the first constables who managed the affairs of the towns or parishes, the principal unit of government during the 1660’s.”<sup>23</sup> Unlike the sheriff, who was selected yearly by the governor, the town officers – the constable and a board of overseers – “were directly the choice of the people.”<sup>24</sup> Each town had its own constitution and by-laws, “which, when sanctioned by the court of sessions, became the basis of its own administration. Such constitution and laws were framed by the constable and a majority of overseers, and local observance became binding upon local inhabitants.”<sup>25</sup> Constables’ duties included property appraisal and tax collection; in addition, they served on the town court.<sup>26</sup> “The constable and overseers were also, *ex-officio*, churchwardens, and in this capacity were the ecclesiastical governors and moral guardians of the

---

<sup>15</sup> Encyclopaedia Britannica, *supra* note 5.

<sup>16</sup> *Id.*

<sup>17</sup> *Id.*

<sup>18</sup> *Id.*

<sup>19</sup> *Id.*

<sup>20</sup> Pa. State Constables, <http://www.pastateconstables.com/history.php> (last visited Mar. 21, 2014).

<sup>21</sup> Kathleen A. Loos, *Powers and Duties of Constables in Pennsylvania* 1 (1974).

<sup>22</sup> E. R. L. Gould, *Local Self-Government in Pennsylvania*, *The Pa. Magazine of History & Biography*, 156-57 (Vol. 6, No. 2) (1882), available at

[http://www.jstor.org/stable/20084548?seq=2&Search=yes&searchText=Local&searchText=Pennsylvania&searchText=in&searchText=Self-](http://www.jstor.org/stable/20084548?seq=2&Search=yes&searchText=Local&searchText=Pennsylvania&searchText=in&searchText=Self-Government&list=hide&searchUri=%2Faction%2FdoBasicSearch%3FQuery%3DLocal%2BSelf-Government%2Bin%2BPennsylvania%26amp%3Bacc%3Doff%26amp%3Bwc%3Don%26amp%3Bfc%3Doff&prevSearch=&resultsServiceName=null)

[Government%2Bin%2BPennsylvania%26amp%3Bacc%3Doff%26amp%3Bwc%3Don%26amp%3Bfc%3Doff&prevSearch=&resultsServiceName=null](http://www.jstor.org/stable/20084548?seq=2&Search=yes&searchText=Local&searchText=Pennsylvania&searchText=in&searchText=Self-Government&list=hide&searchUri=%2Faction%2FdoBasicSearch%3FQuery%3DLocal%2BSelf-Government%2Bin%2BPennsylvania%26amp%3Bacc%3Doff%26amp%3Bwc%3Don%26amp%3Bfc%3Doff&prevSearch=&resultsServiceName=null) (last visited Mar. 21, 2014).

<sup>23</sup> Loos, *supra* note 21.

<sup>24</sup> Gould, *supra* note 22, at 157. The constable was elected for one year. *Id.*

<sup>25</sup> *Id.*

<sup>26</sup> Loos, *supra* note 21.

parish.”<sup>27</sup> Similar to England, “the principal purpose of the office has been to provide for a peace officer within easy reach of every citizen.”<sup>28</sup>

Starting with the first settlements and throughout the Commonwealth’s history, constables have been preservers of the peace.<sup>29</sup> Published in 1913, *Pennsylvania Justices’ Digest and Guide* describes the constabulary in the following way:

Every constable, at the Common Law is a conservator of the peace; and, as such, he may arrest those who break the peace, confine them, bring them before a Justice to find surety or, he may himself take surety, when the breach is committed in his view. He is the proper executive hand of the Justice of the Peace, to serve his process and execute his lawful commands.<sup>30</sup>

Some researchers believe that by the mid-twentieth century, the historical function of the constable as peace officer had virtually disappeared in Pennsylvania; “more and more the constable’s chief function has become commercial in nature.”<sup>31</sup> Presumably, this is due to a combination of factors. Arresting criminal offenders is likely more unpleasant and more dangerous than performing the duties that are commercial in nature. Also, boroughs and townships created their own police departments to replace the criminal aspect of constabulary service.

Currently in Pennsylvania, constables are elected for a six-year term. Approximately 1,300 constables and deputy constables are or remain certified every year.<sup>32</sup> Constables are elected at the municipal level but governed by state law and have statewide authority in certain instances; thus, they are referred to as State Constables.<sup>33</sup>

*Black’s Law Dictionary* emphasizes that a constable’s powers are narrower in scope than those of a sheriff. It defines a constable as “a peace officer responsible for minor judicial duties, such as serving writs and warrants, but with less authority and smaller jurisdiction than a sheriff.”<sup>34</sup>

The operations of constables can be classified into four principal categories: assistance to the magistrate, especially service of process; small debt collection; landlord-tenant work, including collection of overdue rent or eviction; and miscellaneous and often anachronistic statutory functions encrusted upon the office of the constable by years of legislative activity.<sup>35</sup>

---

<sup>27</sup> Gould, *supra* note 22, at 158.

<sup>28</sup> Loos, *supra* note 21, at 2.

<sup>29</sup> *Id.* at 1-2.

<sup>30</sup> A. R. Place, *Pennsylvania Justices’ Digest and Guide with Forms of Practice Embracing All the Statues, Decisions and Forms Pertaining to the Duties of Justices of the Peace, Aldermen, Magistrates, Mayors, Burgesses and Constables* 42 (1913).

<sup>31</sup> *The Philadelphia Constable*, 104 U. Pa. L. Rev. 508, 518 (1956).

<sup>32</sup> Interview with John F. Pfau, Manager of Bureau of Training Servs., Pa. Comm’n on Crime & Delinquency, in Harrisburg (Apr. 23, 2013).

<sup>33</sup> DVD: *Pa. Act 49 Basic Course* (Pa. Comm’n on Crime & Delinquency 2013).

<sup>34</sup> *Black’s Law Dictionary* 329 (8<sup>th</sup> ed. 2004).

<sup>35</sup> *The Philadelphia Constable*, *supra* note 31.

Not all constables perform all of these functions. In fact, it is common for some constables to engage in one type of work. Civil-oriented constables serve process, handle landlord-tenant complaints and execute the enforcement of monetary judgments and levies while criminal-oriented constables execute arrest warrants, transport prisoners, and provide court security.

As for criminal duties and responsibilities, constables have been charged with a variety of functions, from searching for certain kinds of weeds and enforcing their destruction to inspecting public dance halls and liquor parlors, from enforcing fish laws and seizing dogs running at large to protecting property threatened by riots in Philadelphia.<sup>36</sup> Civil duties of the constable involve collecting money on writs of execution and enforcing the rights of landlords against delinquent tenants as well as formerly serving “summons and warrants for violation of borough ordinances when directed to him by the borough mayor or justice of the peace.”<sup>37</sup>

Over the years, constables’ functions have changed significantly. “A survey of the statutes would give a distorted picture of the existing pattern of a constable’s daily work.”<sup>38</sup> According to some legal experts, some of the actions constables currently perform do not fall into the categories appropriate for elected public officials. “The constable today is the product of historical evolution rather than a public servant created by the legislature for a specified purpose.”<sup>39</sup> This may be the key factor that necessitates a review and updated clarification of the Pennsylvania constabulary.

## **Current Common & Statutory Law Relating to Pennsylvania’s Constabulary**

### *Nature & Existence*

In colonial America, the constabulary was the chief guardian of the peace; in contemporary Pennsylvania, police have become the publicly employed force relied upon to preserve public order. Although constables remain peace officers,<sup>40</sup> they are now chiefly relied upon to serve the judiciary by aiding the judicial process. Unlike police, the constabulary is elected;<sup>41</sup> however, like police, the constabulary exercises executive rather than judicial or legislative power.

---

<sup>36</sup> Loos, *supra* note 21, at 9-11.

<sup>37</sup> *Id.* at 12.

<sup>38</sup> *The Philadelphia Constable*, *supra* note 31, at 531.

<sup>39</sup> *Id.* at 539.

<sup>40</sup> “Simply stated, a constable is a peace officer.” *In re Act 147*, 598 A.2d 985, 990 (Pa. 1991).

<sup>41</sup> A constable may not be an alderman or magisterial district judge but may hold other elective or political party offices. 44 Pa.C.S. § 7131. Under a former but similarly worded version of the statute, an elective office has been judicially interpreted to refer to a political party rather than any other governmental office. *Commw. ex rel. MacElree v. Legree*, 609 A.2d 155, 158 (Pa. 1992).

The office of constable was abolished for cities of the first class in 1970.<sup>42</sup> The elected term of constables elsewhere is six years.<sup>43</sup> A constable is independent of both the judiciary and the municipality in which he was elected.<sup>44</sup> With this independence, there is no direct, routine or formal oversight of the constabulary. Constables and their deputies performing duties other than judicial ones may not hold themselves out to be judicial agents or representatives.<sup>45</sup> As independent contractors, constables and their deputies are not entitled to any legal representation from the judiciary, attorney general or any governmental unit including a local agency.<sup>46</sup>

The ancient office of constable, whose general duty was to keep the peace, came to have common-law and statutory duties. It is easier to find current statutes than to determine with certainty whether common-law duties from the 1800's remain sufficient authority. *E.g.*, constables may not enforce motor vehicle laws because there is no statutory authorization for them to do so nor may they derive this authority from the common law.<sup>47</sup>

### *Powers & Duties*

Constables perform various statutorily authorized duties.<sup>48</sup> There is “no protected liberty interest in receiving assignments from the” judicial district in which a constable is elected.<sup>49</sup> Because they are elected, constables have a property interest in their position; however, there is no statutory extension of that property interest in receiving assignments from a particular judicial district.<sup>50</sup> Constables or their deputies are required to “[b]e present at the polling place in each election district . . . during the continuance of each election and while the votes are being counted” to preserve “the peace.”<sup>51</sup> If a coroner cannot “serve process in a suit . . . in which a sheriff . . . may be a party, a constable . . . may serve as the . . . coroner.”<sup>52</sup>

---

<sup>42</sup> 44 Pa.C.S.

<sup>43</sup> A city (of the 2d class, 2d class A or 3d class), borough, inc. town or twp.. *Id.* § 7111. A constable can be elected in each ward for boroughs divided into wards and cities of the 2d & 3d classes; twps. of the 1<sup>st</sup> class can have two constables elected. *Id.* §§ 7112, 7113(b), 7114(a). Constables elected in twps. must appear in their county's court of common pleas to accept or decline the office and forfeit \$40 for neglecting or failing to appear. *Id.* §7114(b). Constables in twps. give bonds “for just and faithful discharge” of official duties in the range of \$500-3,000 as directed by the court. *Id.* § 7114(c). These bonds are “for the same purposes . . . as a sheriff's bond” and benefit “persons who . . . sustain injury by reason of neglect of duty.” *Id.* “An action upon an official bond of a public official” must be commenced within four years. 42 Pa.C.S. § 5525(a)(6). Once elected, a statute may not “extend the term of any public officer.” Pa. Const. art. III, § 27. The same constitutional limitation applies to emoluments, *id.*, which would mean that statutory fees may not be increased during the term of office but mileage reimbursements could be.

<sup>44</sup> *In re Act 147*, 598 A.2d at 986.

<sup>45</sup> 44 Pa.C.S. § 7142(f).

<sup>46</sup> *Rosenwald v. Barbieri*, 462 A.2d 644, 648 (Pa. 1983).

<sup>47</sup> *Commw. v. Roose*, 710 A.2d 1129, 1130 (Pa. 1998).

<sup>48</sup> 44 Pa.C.S. § 7151.

<sup>49</sup> *Swinehart v. McAndrews*, 221 F.Supp.2d 552, 557 (E.D.Pa. 2002), *aff'd*, 69 F.App'x 60 (3d Cir. 2003).

<sup>50</sup> 221 F.Supp.2d at 558-59.

<sup>51</sup> 44 Pa.C.S. § 7152(1). If a polling place is not at a building with a police station, police officers must remain more than 100 feet from a polling place during an election unless they are there to vote, serve warrants or respond to a call to preserve peace. Act of June 3, 1937 (P.L.1333, No.320), § 1207; 25 P.S. § 3047.

<sup>52</sup> 44 Pa.C.S. § 7153.

A constable must have “given security by bond and warrant, with two sufficient sureties and to the satisfaction of the court of common pleas,” for a tax collector to “[g]ive a warrant against delinquent tax payers to a constable.”<sup>53</sup> The warrant for the taxes may not be greater than the amount of the requisite bond.<sup>54</sup> Constables must report and pay all collections at least weekly “after the warrants have been issued.”<sup>55</sup> Commissions may be imposed to collect these taxes, which “accrue interest until they are paid.”<sup>56</sup>

A constable detecting a trespasser on timber land may arrest the trespasser if the constable reasonably suspects the trespasser of committing “an offense against any law for the protection of forests.”<sup>57</sup>

“[O]n or before the return day of the writ of execution,” a constable must provide the magisterial district judge “the receipt of the plaintiff or any other legally sufficient return” to “be discharged from the writ.”<sup>58</sup> If the constable does not timely return or falsely returns or if the return is insufficient, the magisterial district judge is required to summon the constable within eight days “to show cause why a writ of execution should not be issued against the constable for the amount of the writ of execution” covering “[t]he debt, interest and costs of” the writ of execution that had been delivered to the constable.<sup>59</sup> This amount would be entered as a judgment against the constable if he then failed to appear or “show sufficient cause why the writ of execution should not be issued against him.”<sup>60</sup>

If a “constable has no information to impart in the return,” he “is not required to make a return . . . to the court of common pleas” in counties of the sixth through eighth classes.<sup>61</sup> A court may direct a “constable to investigate a complaint of a violation of law” and report to the court.<sup>62</sup> “[A] constable of a borough” is statutorily authorized to make warrantless arrests of those he observes breaching the peace or being drunk, those illegally endangering property or imperiling the personal security of citizens, and those violating an ordinance “for which a fine or penalty is imposed.”<sup>63</sup> A constable is statutorily required to impound livestock if an owner or tenant of improved land notifies the constable of trespassing livestock.<sup>64</sup> The constable then has up to 24 hours to give written notice to the owner of the livestock, if known and residing within the county where the trespass occurred.<sup>65</sup> If the owner of the livestock pays for the damage to the land, the

---

<sup>53</sup> *Id.* § 7154(a)(1). The sum of the security must be \$5,000. *Id.*

<sup>54</sup> *Id.* § 7154(a)(2).

<sup>55</sup> *Id.* § 7154(b).

<sup>56</sup> *Id.* § 7154(c). This applies to “all taxes remaining unpaid on the first day of January after the year for which they were assessed.” *Id.*

<sup>57</sup> *Id.* § 7155. The statute does not require a warrant. *Id.*

<sup>58</sup> *Id.* § 7156(a).

<sup>59</sup> *Id.* § 7156(b).

<sup>60</sup> *Id.* The plaintiff would then apply to the magisterial district judge to “issue an execution against the constable for the amount of the judgment” and direct an authorized person to serve the summons to the constable. *Id.* The fine for not serving this summons is \$20. *Id.*

<sup>61</sup> *Id.* § 7157(a).

<sup>62</sup> *Id.* § 7157(b).

<sup>63</sup> *Id.* § 7158. He can also arrest those he observes being vagrant, riotous or engaging in disorderly conduct. *Id.*

<sup>64</sup> *Id.* § 7159(a).

<sup>65</sup> *Id.* § 7159(b)(1). If the known owner of the livestock resides outside the county of trespass, the written notice must be sent by registered mail within the same 24-hour period. *Id.* § 7159(b)(2).



costs of care, and the constabulary fee within four days of receipt of the notice, the constable has up to three days after receiving payment to return the trespassing livestock to the owner.<sup>66</sup> If the owner does not timely pay, appraisers file a report and the livestock are publicly sold within one day of the filing.<sup>67</sup> The constable writes a report of the sale for and remits money from the sale to the magisterial district judge, who pays the land owner for costs and damages then remits any surplus to the county treasury.<sup>68</sup> “If the sale results in a deficit,” the costs are fully paid or divided *pro rata* with any remainder “paid to the owner of the land for any damage sustained.”<sup>69</sup>

### *Vacancy*

Pennsylvania’s constitution forbids U.S. congressional members and U.S. officers and appointees to simultaneously be constables.<sup>70</sup> If one holds an incompatible office, the constable’s position would be null and void so that his office would become vacant.<sup>71</sup> An elected constable may not hold and exercise “the office of . . . township or borough auditor.”<sup>72</sup> There might be a different application of this constitutional prohibition to borough officers because “[t]he General Assembly may . . . declare what offices are incompatible.”<sup>73</sup> The Borough Code clearly disallows a civil service commissioner to simultaneously be a constable;<sup>74</sup> however, it appears that a borough’s mayor<sup>75</sup> and other borough officials<sup>76</sup> could simultaneously be constables.

If there is a vacancy in the office of constable, a court of common pleas in the county of the vacancy is authorized to appoint a suitable person to serve as constable for the remainder of the unexpired term.<sup>77</sup> With approval of a court of common pleas, a constable may appoint a deputy constable if that appointee resides in the applicable borough, ward or township.<sup>78</sup> Another deputy constable may be appointed to replace one who died or is unable or refuses to act.<sup>79</sup>

---

<sup>66</sup> *Id.* § 7159(c). If the owner does not timely pay, a magisterial district judge must appoint three, disinterested local landowners to appraise to “consider the appraisal” of the damage and report the “value and costs of care and . . . report to the magisterial district judge within five days.” *Id.* § 7159(d).

<sup>67</sup> *Id.* § 7159.1(a). An owner may stop the sale by paying “prior to the sale” or suing “for replevin.” *Id.*, *id.* § 7159.1(b). Damages and fees would still have to be paid in “a successful action of replevin.” *Id.* § 7159.1(c).

<sup>68</sup> *Id.* § 7159.1(a)(3). The owner of the livestock has up to two years after the sale to claim the surplus. *Id.*

<sup>69</sup> *Id.* § 7159.1(a)(4). Costs would be applied to the constable, magisterial district judge, appraisers and care of the trespassing livestock. *Id.*

<sup>70</sup> Pa. Const. art. VI, § 2; Act of May 15, 1874 (P.L.186, No.120), § 1; 65 P.S. § 1. A constable in active military service “during any war or emergency” does not vacate his office. *Id.*

<sup>71</sup> *Id.* § 2.

<sup>72</sup> Act of May 18, 1876 (P.L.179, No.148), § 1; 65 P.S. § 6.

<sup>73</sup> Pa. Const. art. VI, § 2.

<sup>74</sup> Act of Feb. 1, (1966) 1965 (P.L.1656, No.581), § 1173; 53 P.S. § 46173.

<sup>75</sup> *Id.* § 1002-A; 53 P.S. § 46002-A.

<sup>76</sup> *Id.* § 1104; 53 P.S. § 46104.

<sup>77</sup> 44 Pa.C.S. § 7121. Filling this vacancy requires a petition of at least 10 qualified electors residing where the vacancy is. *Id.*

<sup>78</sup> *Id.* § 7122(a). Appointed deputy constables must remain *bona fide* residents where appointed or the appointment may be revoked. *Id.* § 7122(a), (b).

<sup>79</sup> *Id.* § 7122(b)(2). “[T]he courts have held that approval of a deputy constable’s appointment should not be a pro forma matter. . . . [T]he cases generally have discouraged the practice of approving deputy appointments and . . . consistently have required a constable to show a reason or necessity for the appointment before receiving court approval.” *In re Hunter*, 782 A.2d 610, 615 (Pa. Commw. Ct. 2001). Acceptable reasons have been too large of a volume to attend to one’s official duties and personal disability or another unusual condition. *Id.* There is no

A court of common pleas may require an incompetent constable to post additional security or remove him.<sup>80</sup> If removed, “the court may appoint a suitable individual to fill the vacancy until a successor is elected and qualified.”<sup>81</sup>

### *Training*

The Pennsylvania Commission on Crime and Delinquency has a Constables’ Education and Training Board.<sup>82</sup> The Pennsylvania State Police Commissioner or his designee serves on the board along with six gubernatorial appointees subject to senatorial consent.<sup>83</sup> Three gubernatorial appointees must be constables, one a magisterial district judge, one a court administrator, and one a county commissioner.<sup>84</sup> The terms are three years and are limited to “one additional consecutive term.”<sup>85</sup> Board members are not compensated but are “reimbursed the necessary and actual expenses incurred” attending board meetings and performing statutory duties.<sup>86</sup> The governor may remove an appointee from the board “for good cause upon written notice.”<sup>87</sup> Board members elect a chairman for a one-year term.<sup>88</sup> The board must convene at least four times yearly but may convene more often whenever the chairman or any four members write all members at least 10 days in advance.<sup>89</sup>

Constables and their deputies must be certifiably trained to perform judicial duties and obtain statutory fees, surcharges, and mileage reimbursement.<sup>90</sup> This certifiable training is implemented and administered by the Constables Education and Training Program,<sup>91</sup> which includes “training for a total of 80 hours.”<sup>92</sup> Specifically, the program includes requisite courses of study and training, continuing education, approval of schools, minimum qualifications and certification of instructors, development of courses, certification of constables and their deputies, regulations, insurance monitoring, and reports to the governor and General Assembly on the program’s administration, costs, and proposed changes along with board activities.<sup>93</sup> Constables and their deputies have a mandatory continuing education program of up to 40 hours yearly.<sup>94</sup>

---

corresponding statutory requirement of “court approval for the removal of a deputy by the constable.” *In re Page*, 205 A.2d 637, 638 (Pa. Super. Ct. 1964).

<sup>80</sup> 44 Pa.C.S. § 7172(b).

<sup>81</sup> *Id.* “The appointed individual must have a freehold estate with at least \$1,000 beyond incumbrance or furnish security.” *Id.*

<sup>82</sup> *Id.* § 7143(a).

<sup>83</sup> *Id.* § 7143(b).

<sup>84</sup> *Id.* Appointed constables must be certified. *Id.* § 7143(c). Public officials may not serve on the board beyond the time that they are in office; vacancies are filled for the remainder of the unexpired term. *Id.* § 7143(c), (d).

<sup>85</sup> *Id.* § 7143(c).

<sup>86</sup> *Id.* § 7143(e).

<sup>87</sup> *Id.* § 7143(f).

<sup>88</sup> *Id.* § 7143(g). The chairman of the board may succeed himself. *Id.*

<sup>89</sup> *Id.* § 7143(h). A quorum is four board members. *Id.*

<sup>90</sup> *Id.* § 7142(a).

<sup>91</sup> *Id.* § 7144.

<sup>92</sup> *Id.* § 7145. The content is “determined by regulation,” but must “include instruction in the interpretation and application of” statutory fees. *Id.*

<sup>93</sup> *Id.* § 7144. The insurance monitoring relates to price and availability for the requisite liability insurance and is done “[i]n consultation with the Insurance Commissioner.” *Id.*

<sup>94</sup> *Id.* § 7146. This program concerns subjects deemed “necessary and appropriate” by Constables’ Educ. & Training Bd.. *Id.*

Standards for “certification or qualification of constables and” their deputies to carry and “use firearms in the performance of any duties” are established by Constables’ Education and Training Board “with the review and approval of the Pennsylvania Commission on Crime and Delinquency.”<sup>95</sup>

Constables’ Education and Training Account is “a special restricted account within the General Fund” to finance the training program and activities of Constables’ Education and Training Board.<sup>96</sup> Constabulary performance for which there is statutory compensation<sup>97</sup> results in a surcharge for cases before magisterial district judges.<sup>98</sup> The surcharge is \$5 and assessed by each docket number in criminal cases and by each named defendant in civil cases.<sup>99</sup> Constables must turn over collected surcharges to the issuing authority within a week; the issuing authority remits these surcharges to Department of Revenue to deposit into the account.<sup>100</sup> Disbursements from Constables’ Education and Training Account are made by Pennsylvania Commission on Crime and Delinquency.<sup>101</sup> The Commonwealth’s auditor general must audit this account at least every three years.<sup>102</sup> The commission is authorized to use “surplus funds in the account to assist constables and” their deputies “with costs associated with attendance at continuing education programs.”<sup>103</sup>

Constables and their deputies must be insured for professional liability “covering each individual in the performance of his judicial duties with a minimum coverage of” \$250,000 per incident “and minimum aggregate of” \$500,000 per year.<sup>104</sup> Certification “to perform judicial duties” ceases automatically when and if the requisite insurance coverage is no longer current or if proof of requisite insurance coverage is not filed “with the clerk of the courts.”<sup>105</sup> The statutorily required training and certification of constables and their deputies does not “impose respondeat superior liability on any county.”<sup>106</sup>

The Confidence in Law Enforcement Act<sup>107</sup> does not apply to constables but probably should. This act generally forbids hiring or continuing to employ persons convicted of felonies or serious misdemeanors as law enforcement officers.<sup>108</sup> Under this act, a currently employed law enforcement officer is suspended during the pendency of a disqualifying charge.<sup>109</sup>

---

<sup>95</sup> *Id.* § 7148.

<sup>96</sup> *Id.* § 7149(a).

<sup>97</sup> *Id.* §§ 7161-7166.

<sup>98</sup> *Id.* § 7149(b).

<sup>99</sup> *Id.* A county is not “required to pay this surcharge on behalf of any indigent or other defendant in a criminal case.”  
*Id.*

<sup>100</sup> *Id.* § 7149(c).

<sup>101</sup> *Id.* § 7149(d).

<sup>102</sup> *Id.* § 7149(e).

<sup>103</sup> *Id.* § 7149(f).

<sup>104</sup> *Id.* § 7142(b). Proof of insurance must be filed with the clerk of courts. *Id.*

<sup>105</sup> *Id.* § 7142(c). Recertification is immediate if a constable or his deputy has the requisite insurance and files this proof with the clerk of courts or if an uninsured constable or his deputy obtains the requisite insurance coverage (and files the requisite proof). *Id.* § 7142(d).

<sup>106</sup> *Id.* § 7142(e).

<sup>107</sup> Act of Jan. 29, 2004 (P.L.4, No.2); 53 P.S. §§ 752.1-752.5.

<sup>108</sup> *Id.* § 3; 53 P.S. § 752.3.

<sup>109</sup> *Id.* § 4; 53 P.S. § 752.4.

## Compensation<sup>110</sup>

Compensation of constables is statutorily set. “Actual mileage for travel by motor vehicle” is “reimbursed . . . equal to the highest rate allowed by the Internal Revenue Service.”<sup>111</sup> Travel costs for more than one defendant “transported simultaneously” are “divided between or among the defendants.”<sup>112</sup> When transporting a prisoner or serving an arrest warrant for a felony or misdemeanor or one for a juvenile or a defendant of the opposite sex, a constable or his deputy may be accompanied by another certified constable or deputy and each would receive the statutory fee.<sup>113</sup> “In civil and landlord-tenant cases, constable fees must be paid in advance to the court for services desired to be performed.”<sup>114</sup> The fees may not be paid to the court more than 15 days after the service is performed in a civil or landlord-tenant case “and a proper request for payment is submitted.”<sup>115</sup> For criminal cases, the fees must be paid not more than 30 days “after the service is performed and a proper request for payment is submitted.”<sup>116</sup> The statute details the fees for civil and landlord-tenant cases as well as for criminal cases and serving “district court-issued subpoenas” in those cases.<sup>117</sup> Fees for services unspecified in the statute are to be the same as those for similar, statutory services.<sup>118</sup>

Fees are also statutorily specified for court appearances and returns, notices of election, and for juvenile matters.<sup>119</sup> A constable is entitled to fees or mileage for making returns when they are required by the court.<sup>120</sup> For service at elections, the county must pay a constable and his deputies “the same compensation payable to inspectors and clerks under . . . Pennsylvania Election Code.”<sup>121</sup> The statute specifies fees for impounding and selling animals and viewing damages.<sup>122</sup> For seizure of motor vehicle registration plates and cards and drivers’ licenses under Vehicle Code, constables are compensated \$15 each (plus mileage) by Department of Transportation.<sup>123</sup>

---

<sup>110</sup> A table of the current statutory compensation appears as Appendix C, *infra* p. 61.

<sup>111</sup> 44 Pa.C.S. § 7161.

<sup>112</sup> *Id.*

<sup>113</sup> *Id.* “In all other civil, landlord-tenant and summary criminal cases, the issuing authority may authorize payment to a second officer.” *Id.*

<sup>114</sup> *Id.* These fees are nonrefundable “to the plaintiff if a case is settled or a debt is satisfied less than 48 hours prior to a scheduled sale or ejection.” *Id.*

<sup>115</sup> *Id.*

<sup>116</sup> *Id.* If the county accounts are payable monthly, the timeliness for criminal cases is within “15 days after the close of the month.” *Id.*

<sup>117</sup> *Id.*

<sup>118</sup> *Id.* § 7161(i). To get paid, a constable would need to perform a statutory service or a service similar to a statutory one. Interpreting a similarly worded clause in a prior statute, the clause should “be construed strictly but no so strictly as to nullify it.” *McCallister v. Armstrong Cnty.*, 9 Pa. Super. Ct. 423 (1898).

<sup>119</sup> *Id.* § 7161.1.

<sup>120</sup> *Id.* § 7162.

<sup>121</sup> *Id.* § 7163.

<sup>122</sup> *Id.* § 7164.

<sup>123</sup> *Id.* § 7165.

Generally, constables also employed as policemen may not accept fees and other compensation other than their salaries as policemen.<sup>124</sup> They could still accept “public rewards and legal mileage allowed to a constable for traveling expenses,” and The Borough Code<sup>125</sup> might allow borough policemen to “receive all costs, fees and emoluments pertaining to” the office of constable in the borough.<sup>126</sup>

A law may not “increase or diminish” a public officer’s “salary or emoluments, after his election or appointment.”<sup>127</sup> While constables receive no salary, the statutory fees would be emoluments.<sup>128</sup>

### *Penalties & Remedies*

Upon a verified petition alleging official incompetence, a court of common pleas may inquire into the official conduct of a constable.<sup>129</sup> A constable’s surety’s verified petition could be based upon intemperance or neglect of duty; a different party’s verified petition would need to allege another reason.<sup>130</sup> A judicial finding of incompetence could result in a mandated additional security or removal from office.<sup>131</sup> A judicially appointed successor to replace a judicially removed constable is statutorily required to have a security.<sup>132</sup>

The statute specifically covers defaults on remittance of collected tax<sup>133</sup> and an action against a constable’s furnished security.<sup>134</sup> “A constable who neglects or refuses to perform the duties under . . . Pennsylvania Election Code commits a misdemeanor of the third degree . . . .”<sup>135</sup> Mistakenly, the statute makes it a misdemeanor of the third degree for constables employed as policemen to accept “any fee or other compensation, in addition to their salary” in violation of a repealed law.<sup>136</sup>

---

<sup>124</sup> *Id.* § 7132(a).

<sup>125</sup> Act of Feb. 1, 1966 (1965 P.L.1656, No.581); 53 P.S. §§ 45101-48501.

<sup>126</sup> 44 Pa.C.S. § 7132(b).

<sup>127</sup> Pa. Const. art. III, § 27.

<sup>128</sup> *Apple v. Crawford Cnty.*, 105 Pa. 300 (1884). Compensation fixed by law for services or annexed to the office as fees. *Id.*

<sup>129</sup> 44 Pa.C.S. § 7172(a).

<sup>130</sup> *Id.* *E.g.*, “oppression of a litigant or witness.” *Id.* The judicial inquiry is “into the official conduct of the constable” so that “objectionable conduct” occurring “while acting as a railway police officer” instead of as a constable limited judicial authority to remove a constable from office. *In re petition to remove Constable Visoski*, 852 A.2d 345, 347 (Pa. Super. Ct. 2004).

<sup>131</sup> 44 Pa.C.S. § 7172(b).

<sup>132</sup> *Id.*

<sup>133</sup> *Id.* § 7173.

<sup>134</sup> *Id.* § 7174.

<sup>135</sup> *Id.* § 7175.

<sup>136</sup> *Id.* § 7176. This section was enacted by the act of Oct. 9, 2009 (P.L.494, No.49), § 2; §(4)(2)(xvi), (xvii) of the same act repealed the law referenced in § 7176.

The statute also allows a constable's surety who paid for a constable's neglectful failure to collect money on execution of a process to then equitably collect on the judgment.<sup>137</sup> Constables elected or appointed to serve in a township may be fined for failing to serve or appoint a deputy to serve.<sup>138</sup>

A constable who demands or charges an excessive fee is liable for the overcharge plus a \$50 forfeiture if the constable refuses to return the overcharge within ten days of his written notification.<sup>139</sup>

### *Deputy Constables*

With approval of a court of common pleas, a constable may appoint a deputy constable if that appointee resides in the applicable borough, ward or township.<sup>140</sup> Plaintiffs can request a deputy be specially appointed in a civil suit, and these appointments do not require approval by a court of common pleas.<sup>141</sup> Another deputy constable may be appointed to replace one who died or is unable or refuses to act.<sup>142</sup>

“The constable executes . . . his office by himself or by his deputy. No separate office of deputy constable exists . . . , and when a vacancy occurs in the office of constable, . . . the deputy ceases to exist as such.”<sup>143</sup> The statute does not require “court approval for the removal of a deputy by the constable.”<sup>144</sup>

The Confidence in Law Enforcement Act<sup>145</sup> does not apply to deputy constables but probably should. This act generally forbids hiring or continuing to employ persons convicted of felonies or serious misdemeanors as law enforcement officers.<sup>146</sup> Under this act, a currently employed law enforcement officer is suspended during the pendency of a disqualifying charge.<sup>147</sup>

---

<sup>137</sup> 44 Pa.C.S. § 7177.

<sup>138</sup> *Id.* § 7178.

<sup>139</sup> Act of May 26, 1897 (P.L.100, No.84), § 1; 65 P.S. § 134.

<sup>140</sup> 44 Pa.C.S. § 7122(a). Appointed deputy constables must remain *bona fide* residents where appointed or the appointment may be revoked. *Id.* § 7122(a), (b). Judicial revocation would occur via “petition of five duly qualified electors . . . and proof of the facts requiring revocation.” *Id.* § 7122(b)(1). The judiciary could also revoke an appointment if a subsequent petition successfully asserts that the deputy was not a *bona fide* resident when originally appointed. *Appeal of Reed*, 164 A. 619 (Pa. 1933).

<sup>141</sup> *Id.* § 7122(b)(1).

<sup>142</sup> *Id.* § 7122(b)(2). “[T]he courts have held that approval of a deputy constable’s appointment should not be a pro forma matter. . . . [T]he cases generally have discouraged the practice of approving deputy appointments and . . . consistently have required a constable to show a reason or necessity for the appointment before receiving court approval.” *In re Hunter*, 782 A.2d 610, 615 (Pa. Commw. Ct. 2001). Acceptable reasons have been too large of a volume to attend to one’s official duties and personal disability or another unusual condition. *Id.* There is no corresponding statutory requirement of “court approval for the removal of a deputy by the constable.” *In re Page*, 205 A.2d 637, 638 (Pa. Super. Ct. 1964).

<sup>143</sup> *National Cash Register Co. v. Berg*, 99 Pa. Super. Ct. 34 (1930).

<sup>144</sup> *Page*, 205 A.2d at 638.

<sup>145</sup> Act of Jan. 29, 2004 (P.L.4, No.2); 53 P.S. §§ 752.1-752.5.

<sup>146</sup> *Id.* § 3; 53 P.S. § 752.3.

<sup>147</sup> *Id.* § 4; 53 P.S. § 752.4.

## Training

### *Constables' Education & Training Board*

Act No. 102 of 1992<sup>148</sup> statutorily established Constables' Education and Training Board to train and certify constables and deputy constables through its Constables' Education and Training Program. Before the board assembled and the program began, this act was repealed and replaced by another act two years later.<sup>149</sup> Fifteen years after that, the act was again repealed and replaced by another.<sup>150</sup> All three versions<sup>151</sup> of this law established both the board and its education and training program.

The board operates with the oversight and staff support of Pennsylvania Commission on Crime and Delinquency.<sup>152</sup> The constables' training and certification programs are continuously improved and modified to keep in step with changing constabulary needs and the constabulary role in the criminal justice system. The training is provided by various, regional training contractors. The commission's Bureau of Training Services supervises and coordinates their activities. It ensures proper curriculum development and delivery as well as timely and accurate constabulary certification and recertification.

A constable or deputy constable is required to be certified to perform any judicial duties or demand or receive any statutory fee, surcharge or mileage.<sup>153</sup> The board establishes, implements and administers requirements for the basic and continuing education programs for constables and deputy constables and certifies those who have satisfactorily completed the basic and continuing education and training.<sup>154</sup>

### *Constables' Education & Training Program*

The basic constables' education and training program includes training for a total of 80 hours.<sup>155</sup> A mandatory continuing education program includes up to 40 hours a year.<sup>156</sup> The program is funded by the surcharges assessed as costs on cases before magisterial district judges; the amount of the surcharge has not been increased since its inception in 1994.<sup>157</sup>

---

<sup>148</sup> Act of July 9, 1992 (P.L.689, No.102).

<sup>149</sup> Act of July 15, 1994 (P.L.265, No.44).

<sup>150</sup> Act of Apr. 9, 2009 (P.L.494, No.49).

<sup>151</sup> The 1<sup>st</sup> version amended the act of July 20, 1917 (P.L.1158, No.401), referred to as Constable Fee Law. The 2d version repealed Constable Fee Law to enact 42 Pa.C.S. ch. 29, subch. C (relating to constables). The 3d and current version repealed 42 Pa.C.S. ch. 29, subch. C, to enact 44 Pa.C.S. ch. 71 (relating to constables).

<sup>152</sup> 44 Pa.C.S. §§ 7143(a), 7144.

<sup>153</sup> *Id.* § 7142(a).

<sup>154</sup> *Id.* §§ 7144-7146.

<sup>155</sup> *Id.* § 7145.

<sup>156</sup> *Id.* § 7146.

<sup>157</sup> *Id.* § 7149(b). The surcharge is "\$5 per docket number in each criminal case and \$5 per named defendant in each civil case in which a constable or deputy constable performs a service . . . except" counties are not required to pay the "surcharge on behalf of any indigent or other defendant in a criminal case." *Id.*

The board singularly uses Penn State University to develop the training curriculum, which ensures consistency in instruction, course presentation, and content among the regional training delivery contractors.<sup>158</sup> The curriculum contains the topical outline, instructor outlines and study guides, trainee study guides, PowerPoint® presentations, handouts, and standardized test questions for each subject module.<sup>159</sup>

The basic training subjects stay essentially the same from year to year. In 2012 and 2013, the constables' basic training 80-hour curriculum included the following topics:

- Role of the constable in the justice system
- Professional development
- Civil law and process
- Criminal law and process
- Use of force
- Mechanics of arrest
- Defensive tactics
- Prisoner transport and custody
- Court security
- Crisis intervention.<sup>160</sup>

In 2013, basic training also included the use of an expandable baton and oleoresin capsicum (OC) spray.<sup>161</sup>

The “Role of the Constable in the Justice System” provided an introduction to the Pennsylvania justice system and an overview of the development of the role of the constable in the Commonwealth. It also discussed civil and criminal liability issues that pertain to the office of the constable and some of the constable’s legal responsibilities. The instruction defined concepts such as civil suit, civil wrong, negligence, malfeasance, false arrest and imprisonment, defamation, and other relevant concepts; it also highlighted differences between a civil action and a criminal action. The course detailed constables’ behavior in medical emergencies and in situations involving children.

“Professional Development” covered formal and informal communication, both written and oral, and gathering information. The second set of issues dealt with professional conduct in pursuing a constable’s day-to-day tasks and analyzed concepts of moral standards, ethics, individual responsibility and cultural diversity. The segment also touched upon the effects of duty-related stress and coping mechanisms. Part of the time was devoted to instruction on accurate completion of constable fee sheets as required by 44 Pa.C.S. § 7145.

---

<sup>158</sup> Constables’ Educ. & Training Bd., Pa. Comm’n on Crime & Delinquency, Annual Rep. 5 (2012).

<sup>159</sup> *Id.*

<sup>160</sup> *Id.* at 6-7.

<sup>161</sup> E-mail from John Pfau, Manager, Bureau of Training Servs., Pa. Comm’n on Crime & Delinquency (Mar. 11, 2014) (on file with J. State Gov’t Comm’n).



The “Civil Law and Process” segment discussed constables’ duties in the area of civil procedure, mainly landlord-tenant and other service of civil process issued by magisterial district judges. Instruction focused on due process.

“Criminal Law and Process” offered an overview of the history and development of Pennsylvania’s criminal law, Crimes Code, and specific constabulary duties related to the criminal process. The focus was on the classification of crimes, criminal procedure, and constabulary authority.

“Use of Force” examined the legal issues associated with the proper application of force according to Crimes Code and the use of various force options.

“Mechanics of Arrest” detailed proper techniques for the arrest of compliant and non-compliant individuals, along with handcuffing techniques. Instructional methods included practical exercises as well as classroom lecture.

The “Defensive Tactics” section covered techniques for defense against armed and unarmed attackers, with the emphasis on retaining the handgun while under attack.

“Prisoner Transport and Custody” reviewed basic procedures related to prisoner transport, emphasizing safety and legality of constabulary practices.

The “Court Security” segment was designed to heighten awareness of potential problems that may arise in the courtroom and appropriate responses.

“Crisis Intervention” highlighted basic ways to defuse confrontations to prevent them from evolving into life-threatening situations, with the emphasis on recognizing behavioral signals and minimizing risk. Part of this section was Management of Aggressive Behavior training.

Continuing education content varies from year to year. The requisite 2012 continuing education course that constables and deputy constables had to successfully complete to renew their certification for 2013 consisted of 20 hours of training. The following mandatory subjects were taught:

- Defensive tactics
- Cultural diversity
- Ethics
- Use of force.<sup>162</sup>

All four courses were tested by a written examination.

The first course offered a review of and practice in basic defensive tactic techniques, reinforced by force-on-force role-playing scenarios. As defensive tactics are an indispensable part of a constable’s arsenal, the course reviewed patterns of movement and footwork, demonstrated

---

<sup>162</sup> Constables’ Educ. & Training Bd., *supra* note 158, at 8.

handgun retention techniques and emergency knife defense, and discussed handcuffing tactics, techniques, and procedures. The course also analyzed critical mental skills such as situational awareness, subject assessment, and environmental assessment. The course included numerous drills. Trainees had an opportunity to practice at least three ground defense escape techniques.

The second course arose out of recognition that constables, like all law enforcement officers, more often deal with people from various cultural backgrounds. Lack of cultural awareness may lead to misunderstanding and, in turn, to an escalation of conflict. The purpose of the class was to increase cultural awareness and thusly improve constables' ability to interact successfully with persons from various cultures.

The third course reemphasized the importance of ethics in fulfilling constables' duties and reviewed various ethical problems a constable might encounter. It also focused on a specific state document that constables must file.

The fourth class focused on 18 Pa.C.S. ch. 5 (relating to general principles of justification), which addresses the use of force, as well as related federal case law. This block of instruction included training in mental toughness skills that can help overcome the effects of stress on one's memory.

In addition to the mandatory continuing education, the board offers optional training courses to constables and deputy constables who are currently in office and up to date with their training, insurance and certification. In 2012, the 8-hour optional training involved hands-on training in a gym or similar facility.<sup>163</sup> Half of the training was devoted to using force options under stress, and the second half, "Monadnock Expandable Baton," certified constables' use of an expandable baton.

The continuing education courses offered in 2013 included the following:

- Civil law review: enforcement of judgments
- Criminal law review: warrant service
- Defensive tactics: core competencies
- Defensive tactics: using force options under stress (an optional course.)
- Lessons learned: constable involved shooting.<sup>164</sup>

All 2013 continuing education courses included a written examination.

The first course was designed to provide a timeline and procedural guidance to constables in the enforcement of judgments rendered by magisterial district judges for monetary payment. The course contained a detailed review of Pa. Minor Ct. Civ. R. ch. 400 (relating to enforcement of judgments rendered by magisterial district judges for the payment of money), along with several case studies and scenarios directly related to the performance of levies by constables.<sup>165</sup>

---

<sup>163</sup> *Id.* at 9.

<sup>164</sup> DVD: Constables' Continuing Educ. (Pa. Comm'n on Crime & Delinquency 2013).

<sup>165</sup> E-mail from Pfau, *supra* note 161.

“Criminal Law Review” examined the legal basis for warrant service as *per* Pa. R. Crim. P., as well as the tactics for safe and efficient service.<sup>166</sup> “Defensive Tactics” provided a review of and practice in basic constabulary defensive tactic techniques including patterns of movement and footwork, handgun retention techniques, handcuffing tactics and procedures, takedowns, blocks, methods of transitioning between force options, emergency knife defense, and ground defense escape techniques.<sup>167</sup>

The 2013 version of a “Lessons Learned” continuing education course was “Surviving a Constable-Involved Shooting Accident.” A constable-involved shooting is a highly traumatizing event that can cause various problems for the constable. The four-hour module was designed to familiarize constables with possible consequences of a shooting and to teach them how to prepare for and overcome the challenges of such a situation. The course used two recent incidents to highlight critical issues.<sup>168</sup>

The board also establishes standards to certify or qualify constables and their deputies “to carry or use firearms in the performance of any duties.”<sup>169</sup> Similar to continuing education, the firearms qualification is annual. “As constables take firearms training in one calendar year, they are certified to carry firearms in the performance of their duties the following calendar year.”<sup>170</sup> Any constable who is in office and currently certified may attend firearms training and qualification courses; successful completion allows him to achieve initial certification to carry a firearm. Remaining certified to carry firearms on duty requires annual attendance at and successful completion of a 20-hour firearms program.<sup>171</sup>

To certify constables to carry firearms, the board “must ensure they are legally eligible to possess, use, control, sell, transfer or manufacture or obtain a license to possess, use, control, sell, transfer or manufacture a firearm in the Commonwealth, under” 18 Pa.C.S. § 6105 and 18 U.S.C. § 922(g).<sup>172</sup> “Therefore, prior to issuing firearms certification,” Pennsylvania Commission on Crime and Delinquency “performs a criminal history background check.”<sup>173</sup>

The 40-hour Basic Firearms course was designed to provide essential training in acceptable law enforcement techniques for new constables and those with a lapsed firearms certification of three years or more.<sup>174</sup> It is offered upon the completion of the basic 80-hour constable training. The Basic Firearms course consists of lectures, laboratory activities and practical exercises that provide a basic understanding and skills in the safe manipulation of a service revolver/pistol. “The course stresses safe handling techniques, proper cleaning, correct weapons handling skills and marksmanship.”<sup>175</sup> The course includes interactive judgmental shooting scenarios. The 20-hour

---

<sup>166</sup> *Id.*

<sup>167</sup> *Id.*

<sup>168</sup> *Id.*

<sup>169</sup> 44 Pa.C.S. § 7148.

<sup>170</sup> Constables’ Educ. & Training Bd., *supra* note 158, at 9.

<sup>171</sup> *Id.* at 10.

<sup>172</sup> *Id.* The Pa. law relates to persons not to possess, use, manufacture, control, sell or transfer firearms; the U.S. law similarly makes it unlawful for certain persons to ship, transport or possess firearms.

<sup>173</sup> *Id.*

<sup>174</sup> 37 Pa. Code § 431.48(b).

<sup>175</sup> DVD: *2013 Basic Firearms: Pa. Act 49 Course* (Pa. Comm’n on Crime & Delinquency 2013).

Annual Firearm recertification course offers a review of basic firearm-related skills. Both programs emphasize safety and judgmental shooting.<sup>176</sup> To successfully complete either a basic or an annual firearms course, a constable must pass a written test and a qualification course-of-fire that tests skills.<sup>177</sup>

The board constantly seeks improvements to its constable firearms training. A new qualification course-of-fire was introduced in 2010. This course includes the use of barricades, moving to cover, and employing verbal challenges at each stage, reinforces the training and simulates “real world” scenarios.<sup>178</sup> In 2007, the board added a 20-hour Advanced Firearms course for constables who have higher proficiency with their weapons and want to develop their skills further. Only constables who qualified with a range score of 88% or higher the previous year are allowed to participate in the Advanced Firearms course.<sup>179</sup> The Advanced Firearms curriculum includes tactical shooting and moving drills, close-contact, one-handed shooting, firing from kneeling and prone positions, and shooting at partially exposed targets.<sup>180</sup> Cover and concealment was the highlighted topic for the 2013 Advanced Firearms Module.<sup>181</sup>

A former statute provided constables already in office on its effective date an opportunity to achieve certification through a waiver examination, without attending basic training courses.<sup>182</sup> Presently, a similar waiver examination is used by a different group of constables: those who have served in another law enforcement capacity such as police officers or deputy sheriffs and have other Pennsylvania-based law enforcement training and experience.<sup>183</sup> The law enforcement waiver exam includes the topics that constitute the basic constable training course, and the exam is continuously revised and updated.<sup>184</sup>

From the initiation of Constables’ Education and Training Program through 2013, a total of 3,999 people have either successfully completed basic training or passed the waiver examination and have been certified by the board.<sup>185</sup> As part of its effort to disseminate information to constables as well as to magisterial district judges and other members of the Commonwealth’s justice system, the board issues Constables’ Training Bulletins.<sup>186</sup>

---

<sup>176</sup> Constables’ Educ. & Training Bd., *supra* note 158, at 10.

<sup>177</sup> *Id.*

<sup>178</sup> *Id.*

<sup>179</sup> *Id.*

<sup>180</sup> *Id.* at 11.

<sup>181</sup> DVD: *2013 Advanced Firearms: Pa. Act 49 Course* (Pa. Comm’n on Crime & Delinquency 2013).

<sup>182</sup> 42 Pa.C.S. § 2945 (repealed 2009).

<sup>183</sup> 37 Pa. Code §§ 431.23, 431.24.

<sup>184</sup> Constables’ Educ. & Training Bd., *supra* note 158, at 11.

<sup>185</sup> E-mail from Pfau, *supra* note 161.

<sup>186</sup> Constables’ Educ. & Training Bd., *supra* note 158, at 14, *available at* <http://www.portal.state.pa.us/portal/server.pt?open=512&objID=5386&&PageID=494523&level=4&css=L4&mode=2>.

## ISSUES & RECOMMENDATIONS

---

House Resolution No. 138 asserts a legislative commitment to meaningful constabulary reform, emphasizing “increased oversight and accountability.”<sup>187</sup> Pennsylvania’s constabulary is a historical position that has become partly regulated. Constables operate independently but largely support Pennsylvania’s minor judiciary. Historical practices, partial regulation, and independent operation combine to perpetuate confusion for the constables and anybody with whom they interact.

This part of the report will consider some issues and disclose staff proposals to address those issues and update the law. The goal is to clarify intragovernmental authority while increasing some supervisory aspects and promoting more uniform practices and standards for constables locally and Commonwealth wide. This is a staff report based upon informal discussions with individuals holding both executive and judicial positions. Staff obtained different perspectives and conflicting advice. These proposals reveal how staff recommends balancing these differences. If the General Assembly would like to pursue these or similar recommendations, Commission staff is willing to assist committee staff in revising these proposals. Of course, legislative committees would be well-served to hear directly from those with relevant experience who either support or oppose these recommendations.

### Issues Covered by Statutory Recommendations

#### *Definitions*

The statute defines one word, livestock.<sup>188</sup> Commission staff has not found a Pennsylvania trial court or appellate court ruling relating to constabulary impoundment of trespassing livestock that is more recent than 1935. While livestock can still trespass, it is hard to believe that an owner of land on which livestock has trespassed would know to notify his local constable; he might not even be aware who his local constable is (if there is one). Moreover, constables must equip themselves. A constable would have to impound the trespassing livestock with the owner of the land where the livestock trespassed or find an entity “best situated to care for the livestock.”<sup>189</sup>

Constables are not trained to impound livestock, and it is unlikely that many would be notified to do so. It is unlikely that a candidate for election to the constabulary would pursue that position to impound livestock. Staff perceives this to be an outdated duty and recommends that it be repealed from the statute, which would make this definition irrelevant. Since the only defined term in the statute is for a seemingly anachronistic constabulary duty, the section relating to definitions is recommended for repeal.

---

<sup>187</sup> Appendix A, *infra* p. 57.

<sup>188</sup> 44 Pa.C.S. § 7102.

<sup>189</sup> *Id.* § 7159(a)(1).

## *Townships*

With no apparent rationale, some statutory provisions apply to townships and not cities or boroughs. *E.g.*, elected constables of townships who fail to appear in court to accept or decline the office are subject to forfeiture of \$40 and there is a specified statutory bond for constables in townships.<sup>190</sup> There is no equivalent statutory requirement for constables in boroughs and cities. These kinds of provisions should either be repealed or extended to constables regardless of municipality.

The recommendation is to eliminate the statutory forfeiture of \$40 applying to a constable in a township when declining his office. Conversely, the requisite bond would remain for constables in townships and be extended to constables in boroughs and cities. The amounts of the bond have been updated. Both of these recommendations promote statutory uniformity as applied to constables elected in boroughs, cities, and townships.

## *Conflicts*

The statute addresses conflicts for some public offices<sup>191</sup> and police officers.<sup>192</sup> There should be some consideration to statutorily recognize and forbid other potential conflicts to prevent constables from possibly relying on their elected position to assist private arrangements. Another key consideration is separating a public official's constabulary authority benefiting the public from his perceived or actual constabulary authority benefiting private persons and employers. The prohibited conflicts would apply to both constables and their deputies.

The recommendation is to repeal the statutory exception allowing borough police to accept constabulary fees. This recommendation would promote statutory uniformity as applied to police employed by boroughs, cities, and townships. More amendments are recommended to address other potential conflicts that could arise if constables are otherwise employed as bail bond enforcement agents, professional bondsmen, debt collectors, collector-repossessors, police for nonprofit corporations, railroad police, humane society police, security guards, and private detectives. Most of these potential conflicts are addressed by simply forbidding simultaneous employment as a constable and in these other capacities. Bail bond enforcement agents are unlicensed in the Commonwealth; therefore, if this proposal is adopted, constables would be prohibited from working in this capacity (at least for now).

The recommendation includes prohibiting a convicted felon or Megan's law registrant from being a constable or deputy constable. This recommendation is somewhat similar to the Confidence in Law Enforcement Act, which generally forbids hiring or continuing to employ persons convicted of felonies or serious misdemeanors as law enforcement officers.<sup>193</sup> Constables' Education and Training Board would be required to check criminal history record information before certifying constables and deputy constables.

---

<sup>190</sup> *Id.* § 7114(b), (c).

<sup>191</sup> *Id.* § 7131(a).

<sup>192</sup> *Id.* § 7132.

<sup>193</sup> Act of Jan. 29, 2004 (P.L.4, No.2); 53 P.S. §§ 752.1-752.5.

The final recommendation relating to conflicts is to forbid the opportunity for nepotistic approval of fees. Typically, magisterial district judges assign work and authorize the charges payable to constables and deputy constables. Staff became aware of allegations of phony bills being submitted to collect constabulary fees for services never actually performed.<sup>194</sup> This could be especially tempting if a constable is married to a magisterial district judge's clerk. To reduce this temptation, constables would be forbidden to accept work from a magisterial district judge if there is a close relationship or household membership involved. Conversely, a magisterial district judge would be forbidden to request services from a constable due to the same conflict. The prohibition on nepotistic approval of fees could help facilitate equitable work opportunities for constables.

### *Training*

The monetary amounts throughout 44 Pa.C.S. ch. 71 (relating to constables) are dated. *E.g.*, the amount of insurance to cover liability dates from a score of years ago.<sup>195</sup> These amounts and almost all other monetary amounts throughout the chapter are recommended to be updated. Since proof of this coverage is required for constables and their deputies and its requisite amount is proposed to be increased, Constables' Education and Training Board would be required to recurrently evaluate its availability and affordability.

The statutory maximum total hours for Constables' Education and Training Program is 80 hours.<sup>196</sup> There seems to be plenty to cover in the time allowed by the statute; if the board decides to add a topic or expand instruction on a current topic, it must eliminate a topic or reduce instruction on a current topic (because the full 80 hours are used now). To give the board some flexibility to add or expand instruction and not simultaneously eliminate or reduce instruction, the statute should probably convert the maximum of 80 total hours to a minimum and allow the board to maximize instruction at 100 hours. Since 80 total hours of instruction is the *status quo*, changing the statutory maximum to a statutory minimum is not an actual change; however, allowing up to another 20 hours of instruction would change the *status quo* if the board decides to add instruction that is not offset by decreasing instruction elsewhere.

The other proposed amendment for this statutory subchapter would use Constables' Education and Training Account to pay for a newly established board to oversee the constabulary Commonwealth-wide. This account already finances "training program expenses, the costs of administering the program and all other costs associated with the activities of the board" along with constabulary costs associated to attend continuing education programs.<sup>197</sup> Account revenues have been relatively flat for years while the board's costs have increased.<sup>198</sup> The account is funded by a statutory surcharge that has not been increased in the 20 years since its enactment and the inception of the program.<sup>199</sup> To pay for the new oversight board and bolster the account, the

---

<sup>194</sup> Dan Kelly, *Two Berks Constables, District Judge's Secretary Charged in Billing Taxpayers in No-work Scheme*, Reading Eagle, Sept. 23, 2008, available at <http://www2.readingeagle.com/article.aspx?id=106848> (last visited Apr. 14, 2014).

<sup>195</sup> 44 Pa.C.S. § 7142(b); dating at least from the act of June 15, 1994 (P.L.265, No.44), § 1.

<sup>196</sup> *Id.* § 7145.

<sup>197</sup> *Id.* § 7149.

<sup>198</sup> Constables' Educ. & Training Bd., *supra* note 158, at 3.

<sup>199</sup> *Id.*

statutory fee is proposed to almost double. Even if this new oversight board is not created, the statutory surcharge should still be increased substantially.

### *Powers & Duties*

A recommendation would require constables and their deputies performing an authorized duty to wear a uniform or other clothing identifying them as constables and require them to carry a badge. While performing judicial duties, constables must already comply with this requirement.<sup>200</sup> Easy identification is intended to promote protection, authority, and respect during encounters and other interactions among the constabulary and the public.

To preserve peace, constables are statutorily required to serve all elections at the polling place in each election district during the election and while votes are being counted.<sup>201</sup> This is the only statutorily mandated duty of constables. If a polling place is not at a building with a police station, police officers must remain more than 100 feet from a polling place during an election unless they are there to vote, serve warrants or respond to a call to preserve peace.<sup>202</sup> Some county officials contend that this is an unnecessary requirement because police can be summoned if the peace is disturbed at polling places. Some constables believe that they honestly and validly preserve peace while serving elections. There are not enough constables to fulfill this statutory obligation.

The sensible solution is to require constables to preserve peace at polling places where and when there is a perceived need to do so (and not require this service where and when there is no perceived need). Judges of election serve at each polling place and would probably be in the best position to determine the desirability of constabulary service at their locations. County boards of elections could decide as well but would be less likely than judges of elections to develop a familiarity with individual polling places. Since there may be more judges of elections wanting constabulary service at elections than there are available constables and deputies, judges of elections should be required to request constabulary service through the county's director of elections and voter registration. The county director could then assign constables where most needed if there more demand than can be met. The director could also request constables to serve in neighboring boroughs, townships and wards if the constable's service is not requested at his most local or otherwise preferred polling place.

Constabulary duties have evolved throughout their hundreds of years of existence. The statute authorizes constables to arrest those reasonably suspected (but having no warrant) of violating timber laws.<sup>203</sup> Warrantless arrests by our constabulary should be highly limited because contemporary constables are not patrol officers. Timber laws should be enforced by rangers rather than by elected constables and their deputies. Property owners could also report suspected crimes to the police. Constables are not trained to enforce timber laws, and one wonders why they would be patrolling a forest looking to do so. This statutory authorization should have been repealed. At

---

<sup>200</sup> Pa. Unified Judicial Sys., Constable Policies, Procedures & Standards of Conduct IV(C).

<sup>201</sup> 44 Pa.C.S. § 7152.

<sup>202</sup> Act of June 3, 1937 (P.L.1333, No.320), § 1207; 25 P.S. § 3047.

<sup>203</sup> 44 Pa.C.S. § 7155.



one time, constables of townships and boroughs were *ex officio* game wardens, thereby requiring them to protect timber.<sup>204</sup> As far as staff can tell, this statutory authority is actually obsolete.

The statute also directs constables to impound and sell trespassing livestock.<sup>205</sup> This is another statutory provision that is likely obsolete. Constables are not trained to impound and sell trespassing livestock. The person on whose land livestock trespasses might not know that the statute directs him to notify his local constable.<sup>206</sup> Moreover, the person on whose land livestock trespasses might not know who his local constable is or how to contact him.<sup>207</sup> One could presume that Department of Agriculture might be better suited to statutorily assign authority to impound and sell trespassing livestock rather than an independent, elected constable, who must equip himself on an individual basis.

The statute authorizes constables of boroughs to arrest “without warrant and upon view . . . any person who” breaches the peace or is vagrant, riotous, disorderly or drunken.<sup>208</sup> Constables of boroughs are also authorized to arrest “without warrant and upon view . . . any person who” engages in an “unlawful act tending to imperil the personal security or endanger the property of . . . citizens.”<sup>209</sup> Finally, the statute also authorizes constables of boroughs to arrest “without warrant and upon view . . . any person who” violates an ordinance imposing a fine or penalty.

Statutory authority relating to warrantless arrests should apply to constables in townships and cities rather than just in boroughs. Aside from this inconsistency, this statutory authority does not pay a fee to the constabulary for these warrantless arrests. Any of these warrantless arrests would be *gratis*. Moreover, this statutory authority would otherwise be exercised by salaried patrol officers rather than the contemporary, fee-for-service constabulary.

Creating a statutory fee for warrantless arrests by constables would not be a viable alternative. It would pose an untenable conflict of interest for the constabulary, who would be paid *per* arrest, and would subject the payor to excessive demands for payment. If the payor is a governmental entity, a constable could create budgetary trouble by arresting as many subjects as he could. It could create enormous mistrust towards law enforcement because many arrestees would presume that they are being arrested to generate constabulary fees.

Aside from the potential conflict of interest, this statutory authority for warrantless arrests is too broad. The recommended amendment would apply to constables in boroughs, cities and townships to statutorily limit their warrantless arrest authority to crimes endangering persons in their presence and view while on duty. The elected constabulary holds the position for a term of six years and is unsupervised. In contemporary society, it does not seem proper to popularly elect an unsupervised individual for a lengthy term while granting him extensive warrantless arrest authority.

---

<sup>204</sup> Act of Mar. 22, 1899 (P.L.17, No.14) (repealed by the act of Mar. 30, 1925 (P.L.89, No.59)).

<sup>205</sup> 44 Pa.C.S. §§ 7159, 7159.1.

<sup>206</sup> *Id.* § 7159(a).

<sup>207</sup> Pa. Comm’n on Crime & Delinquency allows one to electronically search for constables; however, it does not provide contact information. Available at <https://www.pccd.cis.state.pa.us/search.asp> (last visited Apr. 1, 2014).

<sup>208</sup> 44 Pa.C.S. § 7158.

<sup>209</sup> *Id.*

The constabulary must pay for all its own equipment. The elected constabulary is unlikely to be trained and equipped similarly to municipal police forces that routinely patrol to detect and prevent crime and have a supervisory structure. The elected constabulary does not have the institutional expertise and technology that is available to contemporary police departments. The elected constabulary does not have governmentally assigned legal counsel, charging authority for arrests and access to the intragovernmental data that patrol officers have. False arrests by the constabulary could result in unaffordable insurance *premia*.

In Pennsylvania today, constables are more similar to sheriffs than to police because they function primarily to assist the judiciary rather than to enforce laws *via* a general police power. The statute should recognize this distinction and clarify the warrantless arrest authority for constables by making it uniform throughout the Commonwealth.

Citing their safety in executing arrest warrants and their asserted authority to make warrantless arrests, constables have consistently expressed their interest in having full and unlimited access to Pennsylvania Justice Network.<sup>210</sup> Criminal justice agencies control access to this network and do not permit the constabulary to use it. While constables should have relevant information if the subject of a warrant for arrest has a criminal history indicating his potential danger, they would not need access to this network for warrantless arrests as the recommended amendment would negate its utility in that context.

Appendix E<sup>211</sup> contains references to constables in Pennsylvania statutes outside of 44 Pa.C.S.. Many of these are obscure, outdated or otherwise unjustifiable in contemporary society. *E.g.*, one of these statutes dates from 1885 and directs constables to notify owners of mountain lands to cut weeds within ten days of the notification.<sup>212</sup> A constable neglecting this duty is liable to a fine of \$10.<sup>213</sup> The proposed amendments in this report are limited to 44 Pa.C.S. ch. 71; however, some of these other statutes should be amended or repealed.

### *Compensation*

Constabulary fees are statutorily set.<sup>214</sup> These fees are fixed and only change when the statute is amended, which occurs infrequently and irregularly. Most of these fees date from close to a decade ago. Any amendment should include updated fees. Monetary amounts fixed elsewhere in the statute are also recommended to be updated for the same reason.

Staff is aware of observations and complaints about the disuniform application and interpretation of the statutory fees. The recommended amendment proposes clarifying verbiage to reduce the incidence of disparate payments otherwise dependent upon the county or magisterial district judge. If the recommended statutory amendments are enacted, a nepotically engaged constable's fees would not be payable. Because the statutory authority for constables to sell

---

<sup>210</sup> Supplemental background information is available *infra* p. 45.

<sup>211</sup> *Infra* p. 69.

<sup>212</sup> Act of Apr. 24, 1885 (P.L.9, No.11); 3 P.S. § 243.

<sup>213</sup> *Id.*

<sup>214</sup> 44 Pa.C.S. ch. 71, subch. G.

trespassing livestock is proposed for repeal, the corresponding fees for doing so are also proposed for repeal.

Pennsylvania's constitution forbids increasing emoluments of any public officer after his election.<sup>215</sup> Staff does not know how the past fee increases affected constables during their tenure, but an emolument is compensation for services annexed to an official position as a fee.<sup>216</sup> It seems that any statutory fee increases would be constitutionally forbidden to be paid to a constable unless and until the constable is reelected.

### *Penalties & Remedies*

The statutory authority to remove constables is recommended to be broadened to include malfeasance and engaging in prohibited conflicting employment. Another statutory alternative would be an action in *quo warranto*. “[W]hen the General Assembly creates a public office, it may impose terms . . . on the removal of the public officer so created.”<sup>217</sup> The statute would also expressly say that a constable may revoke the appointment of his deputy with or without judicial approval. “[T]he constable should have the right at any time, like any other principal, to terminate the deputy's power to act for him . . . .”<sup>218</sup>

The section relating to the compensation violation is corrected to refer to the existent law. The current statute mistakenly referred to a repealed law. The amount of the penalty is also updated because the current amount dates from 1897.

The statutory fine applied to a constable in a township who fails to serve or appoint a deputy to do so is recommended to be repealed. The statute authorizes this fine only for constables in a township. If retained, it should be extended to constables in boroughs and cities. Staff decided to recommend its repeal instead because it disbelieves that this fine is routinely imposed.

There are complaints about constabulary service as well as complaints from constables. The constabulary should have more formalized supervision than an election every six years. Since the constabulary is an independent, executive position paid on a fee-for-service basis that is locally elected yet can operate Commonwealth-wide, more formalized supervision is challenging. Constables should also have an accessible and functional forum for their concerns to be fairly addressed.

The recommendation is to statutorily authorize county boards to resolve disputes relating to constabulary performance and pay. To increase uniform practices, county boards could also implement policies to supplement statutes and regulations. Board membership would include representatives of the executive and judiciary.

---

<sup>215</sup> Pa. Const. art. III, § 27.

<sup>216</sup> *Apple v. Crawford Cnty.*, 105 Pa. 300 (1884).

<sup>217</sup> *Burger v. Sch. Bd. of McGuffey Sch. Dist.*, 923 A.2d 1155, 1164 (Pa. 2007). Pa. Const. art. VI, § 1, authorizes the legal creation of officers not constitutionally provided for; this authority “necessarily involves and implies legislative power to annex conditions of tenure.” *Weiss v. Ziegler*, 193 A. 642, 644 (Pa. 1937).

<sup>218</sup> *In re Page*, 205 A.2d 637, 638 (Pa. Super. Ct. 1964).

The recommendation is to require Pennsylvania Commission on Crime and Delinquency to create a Commonwealth board, which could consider appeals from county boards or consider disputes originally if there is no county board. Otherwise, it would function similarly; however the commission could establish policies to supplement statutes that would apply Commonwealth-wide. Appeals of disputes before the board would go to Commonwealth Court. Funding for the board would come from Constables' Education and Training Account. If this recommendation is to be considered, the General Assembly would need direct input from the commission on its viability and affordability.

Staff considered alternatives to a Commonwealth board, but this seems to be a more certain way to implement policies Commonwealth-wide. Other than when performing judicial duties, constables are not and cannot be supervised by the judiciary. At the county level, the sheriff or district attorney could supervise constables, but, since they are all independently elected, one should not be subject to direct subordination to another. The other consideration is that constables have disputes with the paying authority, and those disputes should be fairly considered by a more independent entity. Sometimes the payor regards claims for payment to be improper. Conversely, sometimes the payee contends that the payor is not complying with the statute.

If the constabulary was not established centuries ago and had not remained operational, it is unlikely that this position would be revived in its current form. Elimination of the constabulary would require its replacement because it provides services necessary for the minor judiciary.<sup>219</sup> A replacement would not be cheaper, and there does not seem to be resources available to cover the higher costs for any replacement. Since retaining the constabulary seems to be the more viable recommendation, its authority and supervision should be statutorily clarified and updated.

---

<sup>219</sup> Historical, patrol duties of the constabulary have already been replaced by municipal police.

## **PROPOSED AMENDMENTS TO 44 PA.C.S.**

---

Amending Title 44 (Law and Justice) of the Pennsylvania Consolidated Statutes, in constables, further providing for powers and duties, for conflicts, for training, for compensation and for penalties and remedies and making repeals.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Section 7102 of Title 44 of the Pennsylvania Consolidated Statutes is repealed:

[§ 7102. Definitions.

The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

“Livestock.” Cattle, horses, sheep, goats and swine of every age and sex.]

Section 2. Section 7114 of Title 44 is amended to read:

§ 7114. Townships.

[(a) Election.--] The following shall apply:

(1) The qualified voters of every township shall vote for and elect a properly qualified person for constable.

(2) The qualified electors of each township of the first class may vote for and elect a properly qualified person to serve as constable, in addition to the constable elected under paragraph (1).

[(b) Procedure upon election; penalty.--] Every person elected to the office of constable in a township shall appear in court on the first day of the next court of common pleas of the same county to accept or decline the office. A person who neglects or refuses to appear, after having been duly notified of the election, shall forfeit to the township the sum of \$40 to be levied by order of the court.

(c) Bond.--The bond given by a constable in a township shall be in a sum not less than \$500 nor more than \$3,000, as the court shall direct, and shall be taken by the clerk of the court in the name of the Commonwealth, with conditions for just and faithful discharge by the constable of the duties of office. The bond shall be held in trust for the use and benefit of persons who may sustain injury by reason of neglect of duty, and for the same purposes and uses as a sheriff's bond.]

Section 3. Title 44 is amended by adding a section to read:

§ 7115. Bond.

The bond given by a constable shall be in a commercially available sum not less than \$1,000 nor more than \$5,000, as the court shall direct, and shall be taken by the clerk of the court in the name of the Commonwealth, with conditions for just and faithful discharge by the constable of the

duties of office. The bond shall be held in trust for the use and benefit of persons who may sustain injury by reason of neglect of duty, and for the same purposes and uses as a sheriff's bond.

Section 4. Section 7132 of Title 44 is amended to read:

§ 7132. Police officers.

[(a) Constable employed as policeman not to accept other fees in addition to salary.--] Except for public rewards and legal mileage allowed to a constable or deputy constable for traveling expenses, [and except as provided in subsection (b), it is unlawful for] a constable or deputy constable who is also employed as a policeman [to] may not charge or accept a fee or other compensation, other than his salary as a policeman, for services rendered or performed pertaining to his office or duties as a policeman or constable or deputy constable. Reimbursement for mileage is not payable to a constable for travel within the municipality where the constable or deputy constable is also employed as policeman.

[(b) Exception.--Unless prevented from doing so by the operation of the civil service provisions of the act of February 1, 1966 (1965 P.L.1656, No.581), known as The Borough Code, borough policemen who reside in the borough may hold and exercise the office of constable in the borough, or in any ward thereof, and receive all costs, fees and emoluments pertaining to such office.]

Section 5. Title 44 is amended by adding sections to read:

§ 7133. Bail bond enforcement agent.

(a) General rule.--Unless separately licensed within the Commonwealth as a bail bond enforcement agent and except as provided in subsection (b), a constable or deputy constable may not recapture suspects who are released on bail. If separately licensed within the Commonwealth as a bail bond enforcement agent, a constable or deputy constable recapturing suspects released on bail shall comply with all statutes and regulations governing bail bond enforcement agents.

(b) Exception.--Regardless of licensure as a bail bond enforcement agent, a constable or deputy constable may execute a warrant of arrest issued for an individual released on bail.

§ 7134. Professional bondsman.

A constable or deputy constable may not engage in or continue to engage in business as a professional bondsman.

§ 7135. Debt collection.

(a) Debt collector.--Except when engaged under judicial or other civil process, a constable or deputy constable may not enforce, collect, settle, adjust or compromise claims on behalf of a creditor or collection agency.

(b) Collector-repossessor.--Unless regularly employed by an installment seller or a sales finance company, a constable or deputy constable may not collect a payment on an installment sale contract or repossess a motor vehicle that is the subject of an installment sale contract. When collecting a payment or repossessing a motor vehicle as a regularly employed person, a constable or deputy constable may not hold himself out to be a constable or deputy constable. A constable or deputy constable who is authorized as a regularly employed person to collect these payments or

repossess motor vehicles may not independently contract to perform the same or similar services as a constable or deputy constable.

(c) Definitions.--As used in this section the following words and phrases shall have the meanings given to them in this subsection:

“Claim.” As defined in 18 Pa.C.S. § 7311(h) (relating to unlawful collection agency practices).

“Collection agency.” As defined in 18 Pa.C.S. § 7311(h).

“Creditor.” As defined in 18 Pa.C.S. § 7311(h)

“Installment sale contract.” As defined in 12 Pa.C.S. § 6202 (relating to definitions).

“Installment seller.” As defined in 12 Pa.C.S. § 6202.

“Motor vehicle.” As defined in 12 Pa.C.S. § 6202.

“Sales finance company.” As defined in 12 Pa.C.S. § 6202.

#### § 7136. Other incompatible employment.

A constable or deputy constable may not accept employment or continue to remain employed in these capacities:

(1) Police for a nonprofit corporation appointed under 22 Pa.C.S. § 501 (relating to appointment by nonprofit corporations).

(2) Railroad or street railway police appointed under 22 Pa.C.S. § 3301 (relating to appointment).

(3) Humane society police officer as defined in 22 Pa.C.S. § 3702 (relating to definitions).

(4) Security guard employed by a patrol agency as defined by section 2(e) of the act of August 21, 1953 (P.L.1273, No.361), known as The Private Detective Act of 1953.

(5) Private detective as defined by section 2(c) of The Private Detective Act of 1953.

#### § 7137. Disqualification.

(a) Ineligibility.--An individual is ineligible to be a constable or deputy constable if that individual:

(1) Was convicted of an offense graded as a felony and has not been pardoned.

(2) Is required to register under 42 Pa.C.S. § 9799.13 (relating to applicability).

(b) Certification.--The Constables' Education and Training Board may not certify a constable or deputy constable under section 7144(9) (relating to program established) who is disqualified under subsection (a). To comply with this section, the board shall check criminal history record information under 18 Pa.C.S. Ch. 91 (relating to criminal history record information).

#### § 7138. Nepotism.

(a) Magisterial district judge.--A magisterial district judge may not request services from nor assign work to a constable or deputy constable related to the magisterial district judge or a staff member of the magisterial district judge.

(b) Constable.--A constable or deputy constable may not perform work for or accept an assignment from a magisterial district judge if the constable or deputy constable is related to the magisterial district judge or a staff member of the magisterial district judge.

(c) Definition.--As used in this section the term “related to” refers to spouses, parents, siblings, aunts, uncles, nieces, nephews, cousins, grandparents, grandchildren and members of the same household.

Section 6. Section 7142 of Title 44 is amended to read:

§ 7142. Conduct and insurance.

\* \* \*

(b) Liability insurance.--Every constable and deputy constable must file with the clerk of courts proof that he has, currently in force, a policy of professional liability insurance covering each individual in the performance of his judicial duties with a minimum coverage of [~~\$250,000~~] \$500,000 per incident and a minimum aggregate of [~~\$500,000~~] \$750,000 per year. The Constables' Education and Training Board shall [immediately] recurrently investigate and implement the most cost-effective method of achieving liability insurance for constables and deputy constables under this subsection.

(c) Loss of certification.--Any constable or deputy constable who fails, neglects or refuses to maintain a current insurance policy as required by subsection (b) or to file proof thereof with the clerk of courts shall cease automatically to be certified to perform judicial duties upon the expiration of the policy of which proof has been filed with the clerk of courts. A fee earned prior to loss of certification remains payable to the constable or deputy constable.

\* \* \*

Section 7. Sections 7144 and 7145 of Title 44 are amended to read:

§ 7144. Program established.

The board, with the review and approval of the commission, shall:

\* \* \*

- (12) Make an annual report to the Governor and to the General Assembly concerning:
  - (i) The administration of the Constables' Education and Training Program.
  - (ii) The activities of the board.
  - (iii) The costs of the program.
  - (iv) Proposed changes, if any, in this subchapter.
  - (v) The availability of insurance.

§ 7145. Program contents.

The Constables' Education and Training Program shall include training for a total [of] ranging from a minimum of 80 hours to a maximum of 100 hours, the content of which shall be determined by regulation. The training shall include instruction in the interpretation and application of the fees provided for in section 7161 (relating to fees).

Section 8. Section 7149 of Title 44 is amended to read:

§ 7149. Restricted account.

(a) Account established.--There is established a special restricted account within the General Fund, which shall be known as the Constables' Education and Training Account, for the purposes



of financing training program expenses, the costs of administering the program and all other costs associated with the activities of the board and the implementation of this subchapter and as provided under subsection (f). This account shall also be used to pay the costs associated with the Commonwealth constabulary review board established by section 7179(c) (relating to oversight).

(b) Surcharge.--There is assessed as a cost in each case before a magisterial district judge a surcharge of [\$5] \$9 per docket number in each criminal case and [\$5] \$9 per named defendant in each civil case in which a constable or deputy constable performs a service provided in Subchapter G (relating to compensation), except that no county shall be required to pay this surcharge on behalf of any indigent or other defendant in a criminal case.

\* \* \*

Section 9. Sections 7151 and 7152 of Title 44 are amended to read:

§ 7151. General imposition of duties and grant of powers.

(a) Statutory duties.--Constables or deputy constables shall perform all duties authorized or imposed on them by statute.

(b) Uniform.--When performing or attempting to perform an authorized duty, a constable or deputy constable shall wear a police-style uniform or other clothing clearly identifying him as a constable or deputy constable and carry a constabulary badge. If a constable or deputy constable is wearing clothing clearly identifying him as a constable or deputy constable, the writing on the clothing must say “constable” or “deputy constable” and may not say “police”. When a constable or deputy constable is working with and accompanied by a second constable or his deputy, only one is required to wear a uniform or other clothing clearly identifying him as a constable or deputy constable. By regulation, the Pennsylvania Commission on Crime and Delinquency may establish standards for uniform or other clothing consistent with this section.

§ 7152. Elections.

(a) Duty.--The constable of a borough, township or ward, or his deputy, shall do all of the following:

(1) Be present at the polling place in each election district of the borough, township or ward at [each election] elections during the continuance of each election and while the votes are being counted, for the purpose of preserving the peace.

(2) Serve at [all] elections.

(b) Applicability.--A constable:

(1) Shall perform the duty under subsection (a) when a county director of elections and voter registration requires the constable to be present at a polling place within an election district of the borough, township or ward in which the constable was himself elected.

(2) May perform the duty under subsection (a) when a county director of elections requests the constable to be present at a polling place within an election district of the county outside of the borough, township or ward in which the constable was himself elected.

(3) May not perform the duty under subsection (a) unless required or requested to do so by the county director of elections and voter registration, who must base his requirement or request on the input of judges of election.

(c) Deputy constable.--If the duty under subsection (a) is required or requested under subsection (b), a constable may have his deputy:

(1) Substitute for him.

(2) Supplement the constable's presence when the requirement or request is for more than one polling place.

Section 10. Section 7155 of Title 44 is repealed:

[7155. Arrest of offenders against forest laws.

If a person is detected by a constable in the act of trespassing upon any forest or timber land within this Commonwealth, under circumstances as to warrant reasonable suspicion that the person has, is or may commit an offense against any law for the protection of forests and timber land, the constable may, without first procuring a warrant, arrest the person.]

Section 11. Section 7156(b) of Title 44 is amended to read:

§ 7156. Executions.

\* \* \*

(b) Invalid returns.--If a constable or deputy constable makes a false return, does not produce the plaintiff's receipt on the return day or makes a return deemed insufficient by the magisterial district judge, the magisterial district judge shall issue a summons to the constable or deputy constable to appear on the designated day, which may not be more than eight days from the date of issuance, to show cause why a writ of execution should not be issued against the constable or deputy constable for the amount of the writ of execution under subsection (a). If the constable or deputy constable does not appear or does not show sufficient cause why the writ of execution should not be issued against him, the magisterial district judge shall enter judgment against the constable or deputy constable for the amount of the writ of execution under subsection (a) with costs. No stay may be entered upon the writ of execution, and, upon application of the plaintiff or his agent, the magisterial district judge shall issue an execution against the constable or deputy constable for the amount of the judgment, which may be directed to an authorized person. The summons under this subsection shall be issued to an authorized person to serve. If the summons is not served, that person shall pay a fine of [\$20] \$25. If an authorized person cannot be conveniently found to serve the summons, the magisterial district judge shall direct it to the supervisor of the highways of the township, ward or district where the constable or deputy constable resides, who shall serve the summons or pay a penalty of [\$20] \$25.

\* \* \*

Section 12. Section 7158 of Title 44 is amended to read:

§ 7158. Arrest [in boroughs].

(a) Authority.--In addition to [any other powers granted under law] executing a warrant of arrest, a readily identifiable constable or deputy constable while on official business [of a borough shall] may, without warrant and upon view and probable cause, arrest and commit for hearing any person [who:

(1) Is guilty of a breach of the peace, vagrancy, riotous or disorderly conduct or drunkenness.

(2) May be engaged in the commission of any unlawful act tending to imperil the personal security or endanger the property of the citizens.

(3) Violates any ordinance of the borough for which a fine or penalty is imposed] whose ongoing or threatened conduct is a criminal offense presenting an immediate, clear and present danger to persons.

(b) Fee.--A fee is not payable for the effectuation of a warrantless arrest.

(c) Definition.--As used in this section the term “readily identifiable” means the constable or deputy constable is wearing a uniform and carrying a badge as required by section 7151(b) and makes a reasonably prompt effort to identify himself as a constable or deputy constable.

Section 13. Sections 7159 and 7159.1 of Title 44 are repealed:

[§ 7159. Trespassing livestock.

(a) In general.--An owner or tenant of an enclosed or unenclosed, improved land in this Commonwealth who discovers trespassing livestock shall notify the constable of the township, borough or ward in which the improved land lies. If the constable of the township, borough or ward is unavailable or unable to assist, the owner or tenant shall notify the constable of the county. The following shall apply:

(1) The constable shall impound the livestock either with the owner or tenant of the land if the owner, and the tenant if one exists, agrees or with another individual or entity that the constable may deem best situated to care for the livestock.

(2) All reasonable costs of keeping the livestock shall be part of the costs of care.

(b) Notification.--The owner of the livestock shall be notified in the following manner:

(1) If the owner is known and resides within the county where the trespass has been committed, the constable shall give written notice to the owner that the livestock has been impounded, the location of the livestock and the name of the owner of the land where the livestock trespassed. Notice shall be given within 24 hours of impounding in accordance with the Pennsylvania Rules of Civil Procedure.

(2) If the owner is known but does not reside in the county where the trespass has been committed, the constable shall give written notice to the owner that the livestock has been impounded, the location of the livestock and the name of the owner of the land where the livestock trespassed. Notice shall be served within 24 hours of impounding by registered mail.

(c) Payment.--If, within four days of receiving notice, the owner of the trespassing livestock pays for the cost of the damage to the land, the costs of care and the fee for the constable, the livestock shall be returned to the owner within three days after receiving payment.

(d) Refusal.--If the owner fails to pay the costs and fees within four days, the constable shall notify the magisterial district judge of the county where the trespass was committed. The magisterial district judge shall then direct three disinterested owners of land in the locale where the damage occurred to inspect the trespass, value and appraise the damage. The three shall then consider the appraisal, value and costs of care and make a report to the magisterial district judge within five days.

§ 7159.1. Sale of trespassing livestock.

(a) Process.--If the owner of the livestock fails to pay for the costs, damages and fees within one day of the filing of the report of the appraisers, the livestock shall be sold at a public sale. The following shall apply:

(1) The livestock must be described with particularity in a printed or written advertisement. The following shall apply:

(i) The advertisement must be posted at six of the most public places in the locale of the damaged property.

(ii) The advertisement must set forth a place and time of public sale of the livestock.

(2) At the named time and place, the livestock shall be sold to the highest bidder unless at any time prior to the sale the owner of the livestock shall pay all costs, damages and fees or has begun an action for replevin against the owner of the land.

(3) The constable shall remit a written report of the sale and all money realized from the sale of the livestock to the magisterial district judge. The following shall apply:

(i) The magisterial district judge shall pay the costs and damages to the land owner.

(ii) Not less than three, nor more than four, months after the sale, the magisterial district judge shall remit any surplus to the county treasurer in the county where the damage occurred.

(iii) The owner of the livestock shall have the right to submit proof of ownership to the magisterial district judge or the county treasurer at any time within two years of the sale to claim any surplus of the sale.

(4) If the sale results in a deficit, the payment shall be made as follows:

(i) First, the costs shall be paid in full or divided pro rata among the constable, magisterial district judge, the appraisers and the cost of care.

(ii) After the costs are paid in full, the remaining amount shall be paid to the owner of the land for any damage sustained.

(b) Redemption.--The owner of livestock impounded under this section shall have the right, at any time before the livestock are sold, to pay all the costs accrued and the amount of damages awarded in the appraisal in section 7159 (relating to trespassing livestock) and to recover the livestock.

(c) Replevin.--The owner may also recover the impounded livestock, at any time before the livestock are sold, through a successful action of replevin. The following shall apply:

(1) The action for replevin must be on the condition that the owner of the livestock pay all damages and fees, including:

(i) Amount of damages sustained by the land owner.

(ii) Costs of care.

(iii) Fees to the constable, magisterial district judge and the three disinterested appraisers.

(2) The damages and fees shall be itemized by costs, damages and fees.

(3) If a jury or the appraisers determine that the harm to the owner of the livestock was greater than the harm to the owner of the land, the owner of the livestock must still pay the costs and fees, but not to the attorney for the owner of the land.

(4) If a jury or the appraisers determine that the harm to the owner of the land is greater than the harm to the owner of the livestock, the court shall require the owner of the livestock to pay a reasonable fee to the attorney for the owner of the land.]

Section 14. Sections 7161 and 7161.1 of Title 44 are amended to read:

§ 7161. Fees.

(a) Travel or mileage.--Actual mileage for travel by motor vehicle shall be reimbursed at a rate equal to the highest rate allowed by the Internal Revenue Service. Actual mileage for travel by motor vehicle is reimbursable for distances equaling or exceeding one mile. If travel occurs by a mode other than motor vehicle, reimbursement shall be for the vouchered travel expenses.

(b) Apportionment.--If more than one defendant is transported simultaneously, reimbursements shall be for miles traveled, and the travel cost shall be divided between or among the defendants.

(c) Additional persons.--A constable or deputy constable when he is transporting a prisoner, serving a felony or misdemeanor warrant or serving a warrant on a juvenile or a defendant of the opposite sex may, at his discretion, be accompanied by a second constable or deputy constable who is certified under section 7147 (relating to automatic certification) to perform judicial duties. In those cases, each officer shall receive the fee set out in this section. In all other civil, landlord-tenant and summary criminal cases, the issuing authority may authorize payment to a second officer.

(d) Civil and landlord-tenant cases.--In civil and landlord-tenant cases, constable fees must be paid in advance to the court for services desired to be performed. These fees shall not be refundable to the plaintiff if a case is settled or a debt is satisfied less than 48 hours prior to a scheduled sale or ejectment. In the latter case, the constable or deputy constable shall be paid for holding the sale or carrying out an ejectment, respectively.

(e) Payment.--All civil, landlord-tenant and criminal fees shall be paid by the court to the constable or deputy constable as soon as possible and in no case not more than 15 days in civil and landlord-tenant cases and 30 days in criminal cases after the service is performed and a proper request for payment is submitted, provided that, in criminal cases where the books and accounts of the relevant county offices are payable on a monthly basis, payment shall be made not more than 15 days after the close of the month.

(f) Civil and landlord-tenant cases.--Fees in civil and landlord-tenant cases shall be as follows:

(1) For serving complaint, summons or notice on suitor or tenant, either personally or by leaving a copy, [~~\$13~~] \$15, plus [~~\$5~~] \$6 for each additional defendant at the same address, [~~\$2.50~~] \$3 for each return of service, plus mileage.

(2) For levying goods, including schedule of property levied upon and set aside, notice of levy and return of service, [~~\$75~~] \$90, plus mileage.

(3) For advertising personal property for public sale, [~~\$7~~] \$8 per posting, with a maximum [~~\$21~~] \$25 fee, plus mileage, plus the cost of advertising.

(4) For selling goods levied, receipts and returns to court, [~~\$85~~] \$100, plus mileage.

(5) For making return of not found, [~~\$13~~] \$15, plus mileage. Payment shall be limited to three returns of not found.

(6) For executing order of possession, [~~\$13~~] \$15, plus [~~\$5~~] \$6 for each additional defendant at the same address, [~~\$2.50~~] \$3 for each return of service, plus mileage.

(7) For ejectment, [~~\$90~~] \$105, [~~\$2.50~~] \$3 for each return of service, plus mileage.

(8) For making any return of service other than not found, [~~\$2.50~~] \$4 each.

(9) For providing courtroom security as ordered by a magisterial district judge, [~~\$13~~] \$15 per hour, assessed against one or more parties as determined by the court.

(10) Actual mileage for travel by motor vehicle shall be reimbursed at the rate equal to the highest rate allowed by the Internal Revenue Service. Actual mileage for travel by motor vehicle is reimbursable for distances equaling or exceeding one mile. If travel is by other than motor vehicle, reimbursement shall be for vouchered travel expenses.

(g) Criminal cases.--Fees in criminal cases shall be as follows:

(1) For executing each warrant of arrest not already executed by a law enforcement authority or for effectuating the payment of fines and costs by attempting to execute each warrant of arrest, [~~\$25~~] \$29 for each docket number and [~~\$2.50~~] \$3 for each return of service, plus mileage.

(2) For taking physical custody of a defendant, [~~\$5~~] \$10 per defendant, starting when released by a law enforcement agency or jailor to the constable or deputy constable or after the execution of a warrant of arrest and ending with discharge or commitment with the starting and ending times documented.

(3) For physically taking a [conveyance of] defendant to or from court, [~~\$5~~] \$10 per defendant, but payable for physically taking a defendant from court when directed to do so and documented by a magisterial district judge. This fee is not payable in addition to the fees for transporting defendants by motor vehicle under paragraphs (9) and (10) during the same trip.

(4) For physical attendance at arraignment or preliminary hearing, [~~\$13~~] \$15 as a flat fee, but the beginning and ending times must be documented.

(5) For executing discharge in lieu of arresting a defendant on a warrant when the money was collected to clear the warrant, [~~\$5~~] \$10 per defendant.

(6) For executing a judicial order of commitment to jail, [~~\$5~~] \$8 per defendant.

(7) For executing release of custody from police, sheriff or a correctional facility to a constable or deputy constable, [~~\$5~~] \$8 per defendant.

(8) For making timely returns of completed paperwork to the court or issuing authority, [~~\$2.50~~] \$5. For non-service of a criminal or bench warrant, the court may require the constable or deputy constable to execute an affidavit of due diligence documenting the search efforts.

(9) Transporting by motor vehicle each nonincarcerated defendant to jail, [~~\$17~~] \$20, plus mileage; transporting by motor vehicle an incarcerated prisoner, [~~\$38~~] \$44 per prisoner, plus an hourly rate of [~~\$13~~] \$15 per hour, plus mileage. Computation of hourly rate will apply after the expiration of the first hour per prisoner per hour, not to exceed [~~\$26~~] \$30 per hour per constable or deputy constable.

(10) Receipt of the fees for transporting by motor vehicle a nonincarcerated defendant under paragraph (9) shall not exclude receipt of the fees under paragraphs (6) and (8) for that transport

(11) Receipt of the fees for transporting by motor vehicle an incarcerated prisoner under paragraph (9) shall exclude receipt of the fees under paragraphs (2), (3), (4) and (7) for the transport.

(12) Actual mileage for travel by motor vehicle shall be reimbursed at the rate equal to the highest rate allowed by the Internal Revenue Service. Actual mileage for travel by motor vehicle is reimbursable for distances equaling or exceeding one mile. If travel is by other than motor vehicle, reimbursement shall be for vouchered travel expenses.

(13) For [conveying] physically taking defendants for fingerprinting at a location other than jail, [~~\$17~~] \$20 per defendant as ordered by a magisterial district judge, plus [~~\$13~~] \$15 per hour while present beyond the first hour per defendant per hour, not to exceed [~~\$26~~] \$30 per hour per constable, plus mileage. Unless the fingerprinting is done at a location other than the

jail, this fee is not payable in addition to the fees for transporting defendants by motor vehicle under paragraphs (9) and (10) during the same trip.

(14) For holding one or more defendants at the office of a magisterial district judge for the time the constable or deputy constable remains prior to the start of the hearing and the time after the conclusion of the hearing but prior to release or transport, [~~\$13~~] \$15 per hour per defendant beyond the first half hour.

(15) For courtroom security as ordered by a magisterial district judge, [~~\$13~~] \$15 per hour, assessed against one or more parties as determined by the court.

(16) In all criminal cases wherein the defendant is discharged or indigent or the case is otherwise dismissed, the court shall assess to the county the fee provided in this section, except that, in cases of private criminal complaints where the defendant is discharged prior to the indictment or the filing of any information or the case is otherwise dismissed at the summary offense hearing, the court [shall] may assess the fee to the affiant, except in cases of domestic violence wherein the fee shall be assessed to the county.

(17) The fees for physically taking a defendant under paragraphs (3) and (13) are payable whether the defendant is taken by motor vehicle or otherwise, but the fees for transporting a defendant by motor under paragraphs (9), (10) and (11) are not payable if the defendant is not transported accordingly.

(h) Subpoenas.--For serving district court-issued subpoenas for civil, landlord-tenant or criminal matters, [~~\$13~~] \$15 for first witness, plus [~~\$5~~] \$6 for each additional witness at the same address, [~~\$2.50~~] \$3 return of service for each subpoena, plus mileage. The same fee shall be payable for attempting to serve a subpoena at a wrong address supplied by the party requesting the service. The fees for witnesses and return of service under this subsection accrue per docket number.

(i) Similar fees.--For civil, landlord-tenant and criminal services not specifically provided for, the court shall pay the same fees as it pays for services that it determines to be similar to those performed.

(j) Nepotism.--A fee under this subchapter is not payable if the claim for payment arose under the circumstances prohibited in section 7138 (relating to nepotism).

#### § 7161.1. Specific fees.

(a) Court appearances and returns.--For attendance on court and making returns, the fees to be received by constables shall be [~~\$2.50~~] \$2.75 per day.

(b) Notices of election.--For serving notices of their election upon township or borough officers, the fees to be received by constables or deputy constables shall be [~~\$0.15~~] 20¢ for each service.

\* \* \*

#### Section 15. Section 7164 of Title 44 is repealed:

[§ 7164. Impounding, selling and viewing fees.

(a) Impounding and selling.--The fees collected by the constable for impounding an animal shall be \$1 and \$2 for each animal sold, provided that the fees of the constable for impounding and selling amount to not more than \$4. The fees of the magisterial district judge shall be \$1 for each

case, without regard to the number of animals impounded, for all cases where no sale is made and \$3 for all cases where a sale is made.

(b) Viewing.--The fees for each viewer appointed to assess the damages shall be \$1 for the first hour and \$.50 per hour for each hour necessarily engaged after the first hour.]

Section 16. Section 7165 of Title 44 is amended to read:

§ 7165. Seizure fees.

(a) Registration plates and cards.--If constables and deputy constables are delegated authority to seize registration plates and registration cards under 75 Pa.C.S. § 1376(b)(5) (relating to surrender of registration plates and cards upon suspension or revocation), they shall be compensated by the department at the rate of [\$15] \$17 for each registration plate and card jointly seized, plus mileage. The department shall pay a constable or deputy constable within 30 days after a documented request for payment is submitted to it.

(b) Drivers' licenses.--If constables and deputy constables are delegated authority to seize drivers' licenses under 75 Pa.C.S. § 1540(c)(1)(v) (relating to surrender of license), they shall be compensated by the department at the rate of [\$15] \$17 for each driver's license seized, plus mileage. The department shall pay a constable or deputy constable within 30 days after a documented request is submitted to it.

Section 17. Section 7171 of Title 44 is amended to read:

§ 7171. Election notice in certain areas.

\* \* \*

(b) Acting constables.--The acting constable shall, within six days after the election for a constable, give notice in writing to the elected individual of election to the office. An acting constable who violates this subsection shall pay a civil penalty of [\$16] \$17 to the Commonwealth.

(c) Elected constables.--An individual elected and notified under subsection (b) shall appear on the next day that the court of common pleas of the applicable judicial district is in session and either decline or accept the office. A constable elect who violates this subsection shall pay a civil penalty of [\$16] \$17 to the Commonwealth.

\* \* \*

Section 18. Section 7172 of Title 44 is amended to read:

§ 7172. Incompetence; removal.

(a) Inquiry.--A court of common pleas with competent jurisdiction may inquire into the official conduct of the constable or deputy constable if any of the following apply:

(1) A surety of the constable files a verified petition alleging that the constable or deputy constable is incompetent to discharge official duties because of intemperance or neglect of duty.

(2) Any person files a verified petition alleging that the constable or deputy constable is malfeasant, engages in conduct or employment prohibited by subchapter D (relating to



conflicts) or is incompetent to discharge official duties for a reason other than intemperance or neglect of duty. This paragraph includes an act of oppression of a litigant or a witness.

(b) Determination.--If the court determines that the constable or deputy constable is incompetent to discharge official duties, the following apply:

(1) The court may:

- (i) require additional security from the constable; or
- (ii) remove the constable or deputy constable from office.

(2) Upon removal under paragraph (1)(ii), the court may appoint a suitable individual to fill the vacancy until a successor is elected and qualified. The appointed individual must have a freehold estate with at least \$1,000 beyond incumbrance or furnish security.

(c) Quo warranto.--A constable or deputy constable is also subject to removal by an action in quo warranto instituted by a district attorney or Office of Attorney General.

(d) Deputy constable.--A constable may revoke the appointment of his deputy with or without court approval.

Section 19. Section 7176 of Title 44 is amended to read:

§ 7176. Compensation violation.

A constable who violates [the act of July 14, 1897 (P.L.206, No.209), entitled “An act to regulate the remuneration of policemen and constables employed as policemen throughout the Commonwealth of Pennsylvania, and prohibiting them from charging or accepting any fee or other compensation, in addition to their salary, except as public rewards and mileage for traveling expenses,”] section 7132 (relating to police officers) commits a misdemeanor of the third degree and shall, upon conviction, be sentenced to pay a fine of [\$50] \$1,000 or to imprisonment for not more than 30 days, or both.

Section 20. Section 7178 of Title 44 is repealed:

[§ 7178. Failure to serve in a township.

(a) Scope of section.--This section applies to an individual in a township if all of the following circumstances exist:

- (1) The individual is elected or appointed a constable.
- (2) The individual has a freehold estate worth at least \$1,000.
- (3) The individual fails to:
  - (i) serve; or
  - (ii) appoint a deputy to serve.

(b) Fine.--Except as set forth in subsection (c), an individual under subsection (a) shall be fined \$40 for the use of the appropriate township.

(c) Exception.--Subsection (b) shall not apply to an individual who:

- (1) has served personally or by deputy in the office of constable of the same township within 15 years of election or appointment; or
- (2) has paid a fine under subsection (b) within 15 years of election or appointment.]

Section 21. Title 44 is amended by adding a section to read:

§ 7179. Oversight.

(a) County constabulary review board.--

(1) A county may create a constabulary review board to:

(i) Assist in resolving disputes involving constables or deputy constables and their performance of duties or payment for that performance.

(ii) Establish uniform policies, procedures and standards affecting constabulary service and payment for those services and may adopt or promulgate a constabulary handbook to do so.

(iii) Comply with and implement any statute, regulation, rule of court, judicial ruling or ruling from the Commonwealth constabulary review board affecting constabulary service.

(2) Membership of the constabulary review board is as follows:

(i) The president judge shall appoint one common pleas judge or one magisterial district judge and one district court or special court administrator.

(ii) The county controller or his designee shall serve.

(iii) The district attorney or his designee shall serve and the district attorney shall appoint one certified constable. If there is a conflict directly involving a member, the appointing authority shall appoint an alternate to be used to consider the issue.

(b) Commonwealth constabulary review board.--By regulation, the Pennsylvania Commission on Crime and Delinquency shall establish a constabulary review board to:

(1) Assist in resolving disputes involving constables or deputy constables and their performance of duties or payment for that performance whether considered originally or as an appeal of a resolution from a county constabulary board.

(2) Establish uniform policies, procedures and standards affecting constabulary service and payment for those services and may adopt or promulgate a constabulary handbook or regulation to do so.

(3) Comply with and implement any statute, regulation, rule of court or judicial ruling affecting constabulary service.

(c) Appeal from Commonwealth constabulary review board.--The Commonwealth Court has jurisdiction to hear an appeal of a final order entered in any matter considered by the Commonwealth constabulary review board.

Section 22. This act shall take effect in one year.

## **SUPPLEMENTAL BACKGROUND INFORMATION**

---

This information is intended to explain Pennsylvania Justice Network, which was referenced earlier in the report. Constables may not subscribe to this network. The second part of this section describes the education and training requirements of selected enforcement officers (as a comparison to the requirements for constables).<sup>220</sup>

### **Pennsylvania Justice Network (JNET)**

JNET is the “primary justice information broker for the Commonwealth of Pennsylvania.” Local, county and state agencies share information, and the JNET portal acts as an information broker to the justice and public safety communities. This network provides access to over 38,000 users, including 12,000 law enforcement users in all 67 counties, 54 state bureaus, and additional federal users.<sup>221</sup>

It is controlled by a committee of 16 agencies that contribute data to the system and decide who can access that information. Meetings are held at least quarterly; since 1998, the issue of constabulary access has come up at least annually. Constables have consistently expressed their interest in having full and unlimited access to JNET, citing their safety in serving warrants and their ability to make warrantless arrests. Without JNET access, they cannot check backgrounds or search addresses and photos or search for outstanding warrants. If the report’s recommendation limiting constabulary authority to make warrantless arrests is enacted, that need for access would be eliminated.

A magisterial district judge might provide information to constables when assigning a warrant, but constables are charged \$5 for each requested JNET search, just like “anyone else outside of law enforcement,” and the information is not instantly available.<sup>222</sup> Constables often describe themselves as law enforcement officers and seek the same treatment and consideration. While there have been anecdotal cases of magisterial district judges allowing constables to use their JNET access, those practices violate the user’s JNET agreement. Such access seems to be isolated and minimal. Constables now often receive a photograph of the subject of the warrant. Constables’ requests to access JNET have been denied in every instance on the grounds that they are unsupervised and they primarily serve process for the minor judiciary.<sup>223</sup>

---

<sup>220</sup> Appendix D, *infra* p. 65.

<sup>221</sup> Pa. Just. Network, Pa. Office of Admin., <http://www.pajnet.state.pa.us>.

<sup>222</sup> Interview with Ian Castaneira & Ron Clever, Pa. Fraternal Order of Constables, & Dr. Jack Garner, in Harrisburg (Mar. 10, 2014).

<sup>223</sup> Interview with John Pfau, Manager, Bureau of Training Servs., Pa. Comm’n on Crime & Delinquency, & Sherry Leffler, Supervisor, Constables’ Training & Educ. Program, in Harrisburg (Mar. 12, 2014).

Constables do not work from a fixed physical location, have no oversight, are not a governmental agency and are not official officers of the court. The constabulary is not considered to be a criminal justice agency and does not benefit from the extensive from Municipal Police Officers' Education and Training Commission training. Agencies that control JNET could individually provide access to their information to constables, but none has done so.<sup>224</sup>

The following agencies work in a partnership to make information available to all users. They own and maintain their respective information, and they decide who will be allowed to view their data. The Pennsylvania partners are:

- Pa. State Police
- Admin. Office of Pa. Cts.
- Pa. Bd. of Probation & Parole
- Dept. of Corrections
- Dept. of Transp.
- Pa. Juvenile Ct. Judges Comm'n
- Pa. Comm'n on Sentencing
- Pa. Comm'n on Crime & Delinquency
- Dept. of Pub. Welfare Automated Child Support Enforcement Sys.
- Dept. of Pub. Welfare
- Dept. of Health
- Dept. of Labor & Industry
- Cnty. adult probation records management syss.
- Cnty. prison records management syss.

Additional partners that contribute information include Commonwealth Law Enforcement Assistance Network (CLEAN), National Crime Information Center (NCIC), National Law Enforcement Telecommunications (NLETS), Interstate Identification Index (III), and Interstate Photo Imaging Network (IPIN).<sup>225</sup>

Through the 911 radio network, County of Lancaster has provided radios to constables. The system cannot track them outside of the county. Most constables call in when they are on duty. The county promotes the safety of working constables, but they are placed on a different radio frequency than law enforcement uses.<sup>226</sup>

---

<sup>224</sup> Telephone interview with David Naisby, Pa. Just. Network Exec. Dir., & Charles O'Neill, Legis. Liaison, Pa. Office of Admin. (Aug. 13, 2013).

<sup>225</sup> Pa. Just. Network, "Our Partners," Pa. Office of Admin., <http://www.pajnet.state.pa.us/portal/server.pt?open=512&objID=21386&mode=2&PageID=1510836>.

<sup>226</sup> Telephone interview with Timothy Baldwin, Deputy Dir., Lancaster Cnty. 911 (June 20, 2013).

## **Education & Training Requirements of Enforcement Officers within Commonwealth Agencies<sup>227</sup>**

The goal of job training is to make one proficient in a given occupation and provide the skills to efficiently and effectively carry out the required work. Matching the necessary skill set with the job is often done through a series of filters, beginning with prerequisite schooling or experience, combined with initial entry exams and testing. Trainees receive varying levels of basic training, including classroom and practical applications, which are often followed by a probationary period of on-the-job training, before a trainee becomes a full-fledged employee and is able to work independently.

A high level of training is valuable for those serving in law enforcement, regulatory enforcement and investigative roles. In the field of law enforcement, training is critical to allow to prepare officers to deal with situations involving a range of scenarios. Some agencies run their own residential or part-time training academies; others work cooperatively with Commonwealth and local law enforcement on curriculum and instructions, while a few contract with academic institutions.

Each agency reviewed for this report has some form of law enforcement or investigative component to its work. A selection of agencies was reviewed representing executive, legislative, and independent state agencies, along with county sheriffs, municipal law enforcement, and private entities trained under the Lethal Weapons Training Act.<sup>228</sup> The purpose was to review the basic, practical, and annual training requirements, along with firearms qualification standards, from each agency and compare those with the scope of their enforcement authority. All but one of the 19 types of officers, agents or deputies included received some type of minimum basic training along with required annual, in-service, recertification or re-qualification. Basic training provides the groundwork of overall skills, and advanced or on-the-job training orients the skill set to each specific job.

### *Pennsylvania State Police*

The primary statewide law enforcement agency in the Commonwealth is the Pennsylvania State Police (PSP). The PSP administers and staffs the Municipal Police Officers Education and Training Commission (MPOETC), Lethal Weapons Training, approves training schools, and certifies their graduates. It also operates the training programs of several state agencies with enforcement and investigative agents, including collaborations with the Public Utility Commission, Department of Revenue, Department of Conservation and Natural Resources, and the Fish and Boat Commission.

PSP cadets live in a residential, paramilitary training academy in Hershey for 27 weeks and receive a minimum of 1,169 hours of instruction. Prerequisites include an associate's degree or prior law enforcement or military service. During residency cadets receive instruction totaling 607 hours of classroom, 462 of practical and 112 of combination instruction including physical training, criminal and vehicle law enforcement, investigative techniques, riot and crowd control,

---

<sup>227</sup> Much of this information appears in Appendix D, *infra* p. 65.

<sup>228</sup> Act of Oct. 10, 1974 (P.L.705, No.235); 22 P.S. §§ 41-50.1.

defensive tactics and self-protection, conducted electrical weapons (tasers), OC spray, pursuit driving, and firearms training. All troopers annually receive 32-40 hours of in-service training including 16 hours of firearms instruction, eight hours refresher in use of force and current topics, eight hours of CPR/AED/first aid refreshers, eight hours of classroom instruction in legal updates, including a required ethics refresher, National Incident Management System, and other topics as specified by PSP.<sup>229</sup>

Troopers assigned to duty at the Bureaus of Liquor Control or Gaming Enforcement complete training through the State Police Academy just like all other cadets and then receive additional specific training. The specialized classes on liquor control and gaming enforcement are two hours each, and applicable material within the criminal law and police skills curriculum includes approximately 24 hours of overlapping relevant instruction. Working in cooperation with the Gaming Control Board, PSP provides onsite enforcement and regulatory presence at each gaming facility. Liquor Control officers inspect licensed establishments for age compliance, gambling activity, and smoking violations. The currently authorized complement of the PSP is 4,310 sworn officers.<sup>230</sup>

In addition, there are Liquor Control Officers, who are civilian employees of the PSP and assist in enforcement. Officers do not complete the PSP Academy; however, they are graduates of a 16-week residential training program developed in coordination with the Pennsylvania Liquor Control Board (PLCB). Trainees receive training on the Liquor Code, search and seizure, issuing non-traffic citation, rules of criminal procedure, crimes code overview, force continuum, recognition of gaming devices, investigation procedures, physical training, CPR and first aid, vehicle operations, intelligence gathering, and firearms instructions.<sup>231</sup> PLCB employs field licensing analysts to interview potential licensees, inspect sites, and review documentation to ensure statutory requirements for licensure are met. PLCB does not have enforcement powers itself; those duties all fall to the PSP.<sup>232</sup>

PSP serves 49 percent of the Commonwealth's 2,562 municipalities as their sole law enforcement agency. Police services are provided by the other 51 percent of all municipalities by 1,017 municipal-owned police departments, 173 municipalities that contract for police service, usually with a neighboring force, and 32 regional departments that serve 114 municipalities. In 2010, there were 19,930 full-time officers, 2,064 part-time officers; 79.4 percent of municipalities employed fewer than 15 officers.<sup>233</sup>

---

<sup>229</sup> E-mail from Major Adam Kisthardt, Dir., Bureau of Training & Educ., Pa. State Police (Feb. 28, 2014) (on file with J. State Gov't Comm'n).

<sup>230</sup> Excludes troopers assigned to liquor control, gaming enforcement, Del. River J. Toll Bridge Comm'n & those assigned to Troop T on the Pennsylvania Turnpike.

<sup>231</sup> Pa. State Police, Training Curriculum, "Southwest Training Center, 20<sup>th</sup> Liquor Control Enforcement Class" (Rev. Nov. 14, 2012).

<sup>232</sup> E-mail from Valerie Biden, Exec. Asst. to the Dir. of the Office of Regulatory Affairs (Apr. 8, 2014) (on file with J. State Gov't Comm'n).

<sup>233</sup> Governor's Ctr. for Local Gov't Servs., Dep't of Community & Econ. Dev., "Police Services in Pennsylvania, 2010."

### *Municipal Police Officers*

Municipal police serve at the will of the municipality's governing body and are often supervised by a command structure. In certain instances, typically in rural or small municipalities, individual officers may be employed on a contract or part-time basis and report directly to the governing body. MPOETC was established to provide consistency across the Commonwealth's law enforcement community. Governed by a 19-member commission and chaired by the State Police Commissioner, it is staffed by the PSP's Bureau of Training and Education. The commission is responsible for curriculum development and certification of all municipal, college, university, rail, transit and airport authority, first and second class city housing authorities, sheriff deputies in second class counties, and Capitol Police officers. Certification is provided through 25 certified training schools across the Commonwealth.

Training under MPOETC is focused on full- or part-time employees assigned to criminal or traffic law enforcement duties. A basic training course is comprised of 750 hours of total instruction time, including 192 hours of practical instruction, 72 hours of firearms training and additional instruction in first aid, physical fitness, psychological evaluation, and the Crimes and Vehicle Codes. Certification is required before an officer can enforce the Crimes Code and the Vehicle Code or carry a firearm. Certification lasts for two years, and officers must complete mandatory in-service training, and maintain first aid and CPR certification and firearms qualification.<sup>234</sup>

### *Lethal Weapons Training Act*

Watch guards, protective patrolmen, detectives or criminal investigators who are employed or operate independently for a fee, private security, alarm response guards, night watchman or armored truck guards must be trained and licensed within the Commonwealth. Through 36 certified training schools around the state, the PSP administers and certifies graduates of the program. Prerequisites include physical and psychological testing along with a criminal history check. After completion of a 40-hour instructional and practical course, a certificate of qualification is issued. Recertification is required every five years through an 8-hour renewal course. Active police officers who have completed the MPOETC certification are exempt from these requirements.

### *Capitol Police Officers*

The Pennsylvania Capitol Police force was established in 1895 and is staffed by 86 officers. Officers are charged with "maintaining a safe environment for employees and visitors while on state property, the investigation of all crimes committed within its jurisdiction, as well as the protection of the property and grounds throughout the Capitol Complex and at the state office buildings in Philadelphia, Pittsburgh and Scranton."<sup>235</sup> Services include foot, vehicle and bicycle patrols, and K-9 units.

---

<sup>234</sup> Act of June 18, 1974, P.L. 359, No. 120; 53 Pa. C.S., Ch. 21, Subch. D; 37 Pa. Code §230.52.

<sup>235</sup> Pa. Dep't of Gen. Servs.,

[http://www.portal.state.pa.us/portal/server.pt/community/police\\_and\\_safety/1251/about\\_us/243274](http://www.portal.state.pa.us/portal/server.pt/community/police_and_safety/1251/about_us/243274).

All officers are certified and trained under the MPOETC. Annual education and training includes all required in-service and requalification to maintain their certification. Instruction includes firearms, taser, OC spray, first aid/CPR, and self-defense. Much of the non-lethal training is done in-house, and officers also use HACC's facilities and range. Active shooter training and the Meggitt Training Systems are used for shoot/don't shoot instruction simulations. The Capitol Police are administratively organized under the Bureau of Police and Safety within the Department of General Services.<sup>236</sup>

### *Sheriffs and Deputy Sheriffs*

Each county has an elected sheriff who may appoint deputies. Deputy sheriffs are subject to training requirements as set forth in the Deputy Sheriffs' Education and Training Act, governed by a 10-member advisory board within Pennsylvania Commission on Crime and Delinquency. Deputies are required to complete a 19-week, 760-hour residency training program at Penn State University. Waivers are offered for individual candidates with prior law enforcement or relevant military service. As of 2012, there are 2,115 deputy sheriffs, of which 2,097 have been certified while 18 are grandfathered into the training system. Instruction includes criminal law and procedure, court security, prisoner transport, defensive tactics, anti-terrorism training, patrol procedures and principles of criminal investigations. Firearms instruction and qualification equals 80 hours. Continuing education requirements include 20 hours over two years, with no specific firearms requalification. There are 17 continuing education facilities.<sup>237</sup> There are no training requirements for a duly elected or appointed sheriff.

### *Motor Carrier Enforcement Officers*

The Pennsylvania Public Utility Commission's Motor Carrier Enforcement specialists are responsible for regulating the approximately 7,500 carriers and passenger brokers that transport passengers, property and goods throughout the Commonwealth. Through its Bureau of Investigation and Enforcement, its operations are conducted by 43 officers and supervisors in five districts. The Division is focused on enforcement of trucking and moving companies, taxicabs (outside of Philadelphia), scheduled route bus services, airport transfers, paratransit, limousines (outside of Philadelphia), group and party services with a seating capacity of 15 or more and passenger brokers. Compliance of carriers is focused on adhering to strict safety codes, insurance requirements and just and reasonable rates by conducting roadside safety inspections, safety fitness reviews and audits.<sup>238</sup>

Training for new regulatory enforcement officers includes required completion of the federal Motor Carrier Safety Assistance Program (MCSAP), and an assignment to a senior officer for six months of on-the-job training. Within the first year they are required to become certified inspection mechanics, and most take between two and four years to get up to speed and receive all certifications, depending on the availability of course offerings and openings. They have full access to JNET and other databases, can file misdemeanor citations and certain criminal charges for repeat violations, and perform some post-crash inspections. Annual training includes MCSAP

---

<sup>236</sup> Telephone interview with Jacob Joseph, Chief, Capitol Police (Feb. 24, 2014).

<sup>237</sup> Deputy Sheriffs' Educ. & Training Bd., Pa. Comm'n on Crime & Delinquency, Annual Rep. (2012).

<sup>238</sup> Pa. Pub. Utility Comm'n, [http://www.puc.state.pa.us/consumer\\_info/transportation/motor\\_carrier.aspx](http://www.puc.state.pa.us/consumer_info/transportation/motor_carrier.aspx).



required updates, as well as available, related online training. Prerequisites for applications include a four-year degree in criminal justice or a related field, and preference is given to those who have MPOETC, lethal weapons, deputy sheriff's or related training. Officers do not carry side arms, but are trained in the use of OC spray and handcuffing techniques as they are equipped with both.<sup>239</sup>

### *Revenue Enforcement Agents*

Under the Department of Revenue's Bureau of Criminal Tax Investigations, investigators work to bring to justice individuals and businesses who are skirting the taxing authority of the Commonwealth. The Tax Investigation Division has citation authority for summary offenses, including fines and penalties, primarily for withholding taxes. Agents are tasked with conducting interviews, analyzing records, navigating and interrogating mainframe tax systems, and preparing case files and exhibits for prosecution of cases. The Cigarette Enforcement Division monitors 23,000 licensed cigarette dealers for compliance, identifies contraband cigarettes, conducts warrantless searches, seizes illegal merchandise, issues citations and arrests violators. Physical arrests and transportation of prisoners are always deferred to local law enforcement after citations are issued and individuals detained.

A bachelor's degree in criminal justice or a related field, or experience in law enforcement or regulatory enforcement is a pre-requisite for new hires, but the majority of training is conducted on-the-job and they are assigned to a senior investigator to learn the ropes. The initial probationary period is six months, but a new agent can take 18 months to two years of work before he functions independently. Training is focused on investigations, how to find paper and electronic documents vital to investigations, interview and interrogation techniques, courtroom procedures for providing testimony and building cases, and financial crimes overviews related to their enforcement authority.

There is no formal training or certification required of any revenue agent to prepare, issue or file criminal non-traffic citations or conduct search warrants. To better provide for the personal safety of all agents, the department has contracted with the Pennsylvania Board of Probation and Parole (PBPP) and the PSP to conduct initial and refresher training for physical and verbal self-defense, risk analysis for conducting inspections, and the department often takes advantage of applicable federal, state and local law enforcement training when available. The department is currently developing a training module, in cooperation with PSP, to include standard initial training for investigators, which could be modified as a refresher for changes to laws, regulations or expanded duties.<sup>240</sup>

### *Department of Conservation and Natural Resources Rangers*

Department of Conservation and Natural Resources (DCNR) rangers are responsible for public safety, law enforcement and public relations in both state parks and on state forest land. With the authority to enforce criminal and summary traffic code violations, make warrantless

---

<sup>239</sup> Telephone interview with David Loucks, Chief of Enforcement, Motor Carrier Enforcement Section, Bureau of Investigation & Enforcement, Pa. Pub. Utility Comm'n (Feb. 27 & Mar. 21, 2014).

<sup>240</sup> Memo from Anthony Beccone, Dir., Bureau of Crim. Tax Investigations, Pa. Dep't of Rev. (Mar. 6, 2014).

arrests within property boundaries, they conduct patrols, perform investigations, respond to complaints, enforce park rules and issue citations. In addition to their law enforcement duties, rangers perform special work including public relations work, traffic control, water safety, and assist with forest and wildlife management. There are approximately 37 full-time forest rangers and 50 full-time and 100 part-time park rangers.

Training for new rangers includes completion of MPOETC, which they may have completed on their own or through a DCNR cooperative agreement with PSP, who instructs the 22-week course. While rangers are graduates of the course, they do not hold active MPOETC certification. Following initial training, parks and forest ranger candidates take different tracks. Parks personnel receive training in natural sciences, search and rescue overview, and boat, water and ice rescue. Forest rangers receive some training in wildlife, and habitat and natural sciences. Annual training for all rangers includes MPOETC-required updates, along with a training block that includes OC spray and baton requalification, health, welfare and fitness, lecture, practical scenarios and refreshers in legal updates, rules and regulations. Individual rangers do not have mobile JNET access, but there are plans to provide it within the year.<sup>241</sup>

### *Corrections Officers*

Department of Corrections officers are responsible for monitoring the movement and activities of inmates, response to emergency situations and communication with other officers and inmates to prevent and resolve problems. Job description and training requirements vary based on the status as contact, non-contact, specialty response officers, SERT teams, tower officers and varying levels of leadership, command and administration.

Training includes a two-week orientation and observation of facility and job familiarization, followed by four weeks of intensive academic training at the department's Correctional Training Academy in Elizabethtown. Topics include the departmental organization and structure, policies and procedures, first aid/CPR/AED, defensive tactics, five hours of firearms instruction in pistol and shotgun, OC spray, taser, baton and the proper use of restraints. Testing is weekly and, after the four weeks, trainees receive one year of on-the-job training before they are promoted to a full-fledged correction officer status. Annual training requirements include mandatory computer and classroom based training.<sup>242</sup>

### *Parole Agents*

The PBPP employs parole agents, who provide supervision over probationers and parolees from the state correctional system. Agents provide treatment plans and counseling, conduct investigations, arrest and charge violators and assist in prosecution before an independent body. Prerequisites include a bachelor's degree in criminal justice or a related field. Training is often provided to both state parole agents and county probation officers. The goal is to balance adequate

---

<sup>241</sup> Telephone interview with Jason Hall, Forest Program Manager, Bureau of Forestry, & Ryan Dysinger, Chief, Park Operations & Maintenance Div., Bureau of State Parks, Dep't of Conservation & Nat. Res. (Feb. 25, 2014).

<sup>242</sup> E-mail from Diana Woodside, Dir. of Policy & Legis. Affairs, Dep't of Corrections (Mar. 3, 2014); FY 12/13 Dep't of Corrections Training Acad. Course Description Booklet, "Basic Training (BT)," (Aug. 14, 2012); Dep't of Corrections, "Staff Development and Training Procedure Manual," Policy Number 5.1.1 (Dec. 8, 2003).

supervision of offenders while protecting the public and providing a diversion from prison so offenders can rejoin society productively.

Basic training of agents includes eight weeks of instruction at the PBPP's basic training academy. Two weeks of training is for firearms classroom, range, tactical and dim light instruction, one week is for defensive tactics, two weeks are for general instruction in probation and parole skills and three weeks are for policy and procedures. A six-month on-the-job training period is divided into four phases with each focused on a common cluster of skills and knowledge. During their six months on-the-job training, the agents are required to attend professional development classes. Annual training updates include 40 required hours with 12 hours of firearms requalification, eight hours of defensive tactics and 20 hours of job specific training.<sup>243</sup>

#### *Pennsylvania House of Representatives Security Officer*

House security officers protect people and property in the rooms and spaces occupied by the House of Representatives; they investigate complaints, respond to incidents and suspicious people or behavior. In 2006, officers were armed with revolvers, but in 2013, they were disarmed. Training was modified recently for new hires to remove the firearms qualification segment, but officers will begin receiving taser training. The 160 hours of training is specifically for House of Representatives security, and includes physical fitness, defensive tactics, handcuffing techniques, OC spray and baton training, safety response, crowd control, interview techniques and familiarization with the Crimes Code. Officers also complete the Emergency Responder Certification through HACC. An additional six months of on-the-job training follows. Annual training includes Emergency Responder required updates, plus one week of other training on legal updates, OC spray and baton requalification. Officers are also encouraged to take online, independent study courses through Federal Emergency Management Agency or through the Capitol Police to maintain proficiency.<sup>244</sup>

#### *Senate of Pennsylvania Security Officer*

Senate security officers always maintain a presence in the Capitol. They are required to patrol the Senate and protect persons and property from fire, theft, trespass, harassment and other potential hazards. Organized under the Secretary of the Senate as uniformed Sergeant-at-Arms, they provide security to Senate offices, at session and committee meetings, maintain order and secure entrances of the chamber. Officers are required to write incident reports, prepare damage repair slips and take witness statements and serve subpoenas and warrants by duly authorized officers or committees.<sup>245</sup> While it is an advantage when applicants have completed the MPOETC, deputy sheriffs' or Lethal Weapons Act training, there are no specific prerequisites or required basic training. All trainees are required to complete the Emergency Responders Training certification, which is a 65-70 hour course through HACC. Supervisors seek training opportunities that would apply to the needs of officers and improve and expand their skill set.<sup>246</sup>

---

<sup>243</sup> E-mail from Mark Koch, Legis. Specialist, Policy & Legis. Affairs Office, Pa. Bd. of Probation and Parole (Mar. 18, 2014) (on file with J. State Gov't Comm'n).

<sup>244</sup> Telephone interview with Hal Roach, Dir., Office of Security & Safety of Pa. H.R. (Feb. 27, 2014).

<sup>245</sup> R. Pa. Sen. 8 (2013-14).

<sup>246</sup> Telephone interview with Justin Ferrante, Dir., Office of Sen. Security & Chief Sergeant-at-Arms (Feb. 27, 2014).

## *Wildlife Conservation Officers and Deputies*

Wildlife Conservation Officers (WCOs) are a uniformed Enforcement Division under the Pennsylvania Game Commission's Bureau of Wildlife Protection. Trainees reside at the Ross Leffler School of Conservation in Harrisburg for 50 weeks of instruction in game law interpretation, application of laws, legal procedures, natural sciences, self-defense, first aid/CPR, field reporting, boating and watercraft overviews, public speaking, information and educational dissemination, wildlife protection and management, land and wildlife habitat management practices and firearms instruction. Established in 1932 in Brockway, Jefferson County, the Leffler School is the oldest conservation training school in the nation. In 1988 the school training complex moved to Commission Headquarters in Harrisburg. While it is a necessity to have law enforcement skills, the commission has maintained its in-house training because WCOs need to be more than police officers. Almost two weeks of instruction on firearms are followed by 10 weeks of on-the-job training, typically in the fall during the peak season of hunting activities. While WCOs are graduates of an equivalent to the MPOETC course, they do not hold active certification.<sup>247</sup>

WCOs are authorized to enforce both the Crimes and Vehicle Codes, as well as the Game Code for both misdemeanors and felonies. Specialty training includes drug abuser recognition, nighttime operations and dim-light shooting instruction, courtroom procedures, legal research and mock trials, all of which help officers prosecute their own cases and better deal with modern situations they encounter. Annual in-service training includes defensive tactics, legal updates, use of force, hazardous materials, tasers, first aid/CPR, verbal communications and firearms.<sup>248</sup>

Deputy WCOs serve part-time, voluntary positions. They are required to complete 75 hours of initial training over the course of one week, plus 80 hours of on-the-job training with a WCO during the first year of employment. Initial training includes eight hours of firearms instruction prior to attending the academy, then a four-hour use of force class and 12 hours of range instruction. Post academy, they complete one additional day of training and qualification when they reach their region, but before they are officially commissioned. Deputy WCOs serve a year-long probationary period. While they generally exercise the same powers and duties as the WCOs and can issue citations for summary offenses, deputies are restricted from operating a Commonwealth vehicle equipped with lights for law enforcement purposes to enforce the Vehicle Code. Deputy WCOs are required to qualify with their firearms twice annually and to attend six district training meetings, with the same mandatory requirements as the WCOs, minus the first aid training.<sup>249</sup> During their first year, they are required to undergo daylight and foul weather firearms qualifications, along with both stress and judgment, and dim-light training shoots. There are approximately 136 WCOs and 400 Deputy WCOs.<sup>250</sup>

---

<sup>247</sup> Telephone interview with Richard Palmer, Dir., Bureau of Wildlife Protection, Pa. Game Comm'n (Feb. 26, 2014); Pa. Game Comm'n, "29<sup>th</sup> Wildlife Conservation Officer Cadet Class: Curriculum Course Titles, Instructors and Hours," (2014).

<sup>248</sup> Pa. Game Comm'n, "Standard Operating Procedure No. 10.7: Officer Skills Training," (July 11, 2013); "Becoming a Wildlife Conservation Officer," <http://www.portal.state.pa.us/portal/server.pt?open=514&objID=925454&mode=2>.

<sup>249</sup> Pa. Game Comm'n, "Deputy Wildlife Conservation Officer (Volunteer Position)," <http://www.portal.state.pa.us/portal/server.pt?open=514&objID=575673&mode=2>.

<sup>250</sup> Pennsylvania Hunting/Fishing News, "Palmer Named Wildlife Protection Bureau Director," February 8, 2007, <http://www.fishingrssi.com/node/2188#axzz2wuO7QLpA>.

## *Waterways Conservation Officers and Deputies*

The Fish and Boat Commission waterways conservation officers trainees begin their basic training with a 22-week program at the PSP Training Academy, covering all phases of the Vehicle and Crimes Codes, general law enforcement principles, firearms instruction, criminal investigations procedures and graduate from the MPOETC course. While waterways conservation officers are graduates of the course, they do not hold active MPOETC certification. The commission's policy is to train the officers as policemen, to give them a strong foundation with the initial training and then mold them into WCO's. After successful completion of basic training, they begin an additional 19-week training program at the H. R. Stackhouse School of Fishery Conservation and Watercraft Safety in Bellefonte. Classroom training includes all fish and boat laws and regulations, public education, watercraft safety, land and water management, fish propagation, fisheries biology and conservation, boating accident investigations, public speaking, report writing, first aid/CPR and maintenance and operation of department vehicles and boats. That residential training will be followed by seven weeks of field work and five weeks of on-the-job training. Trainees are put in the field during trout season and boating season, to evaluate them in practical scenarios during these peak times.

Three to five days of annually required, non-consecutive, training at the Stackhouse School are required for legal updates, defensive tactics, handcuffing, weapons retention, OC spray and firearms qualifications, CPR/first aid and hazmat. There are approximately 95 full-time WCO's and 117 deputy WCO's.<sup>251</sup> Deputy WCO's are part-time, voluntary positions. Training includes a minimum of 250 total hours of classroom and practical instruction at the Stackhouse School, plus an additional 150 hours on-the-job. Certification under the Lethal Weapons Training Act or equivalent must also be obtained. While they generally exercise the same powers and duties of the WCO's and can issue citations for summary offenses, deputies are restricted from pursuing, apprehending or arresting individuals suspected of violating the Crimes Code or any other offense graded as a misdemeanor or felony. Deputy WCO's are required to attend annual in-service training as required by the commission and are also required to maintain their Lethal Weapons Training certifications.

---

<sup>251</sup> Telephone interview with Col. Corey Britcher, Dir., Bureau of Law Enforcement, Pa. Fish & Boat Comm'n (Feb. 25, 2014).



**APPENDIX A**  
**House Resolution No. 138**

---

PRINTER'S NO. 965

---

THE GENERAL ASSEMBLY OF PENNSYLVANIA

---

**HOUSE RESOLUTION**

No. **138** Session of  
2013

---

INTRODUCED BY CALTAGIRONE, MARSICO, V. BROWN, REGAN, D. COSTA,  
CUTLER, SABATINA, GRELL, BARBIN, O'NEILL, KULA, STEPHENS,  
NEUMAN, DELOZIER, WHITE, KRIEGER, HACKETT, M. K. KELLER,  
TOOHIL, SACCONI, SCHLOSSBERG, MURT, MUNDY, READSHAW, KORTZ,  
TALLMAN, QUINN, FABRIZIO, BARRAR, COHEN, DENLINGER, MCCARTER,  
GINGRICH AND ROZZI, MARCH 11, 2013

---

REFERRED TO COMMITTEE ON JUDICIARY, MARCH 11, 2013

---

A RESOLUTION

1 Directing the Joint State Government Commission to conduct a  
2 study of the constable system in Pennsylvania and report its  
3 findings and recommendations to the Chief Justice of the  
4 Supreme Court of Pennsylvania and the Judiciary Committee of  
5 the House of Representatives.

6 WHEREAS, The General Assembly is committed to meaningful  
7 reform, including increased oversight and accountability, of the  
8 Statewide constable system; and

9 WHEREAS, Constables were among the first public officers in  
10 this Commonwealth; and

11 WHEREAS, Constable training, duties, performance expectations  
12 and fees have changed throughout the history of this  
13 Commonwealth; and

14 WHEREAS, Act 49 of 2009 consolidated laws relating to  
15 constables, who enforce criminal and civil laws, maintain order  
16 at election polls and transport prisoners within this  
17 Commonwealth; and

1       WHEREAS, The Commission on Crime and Delinquency, through its  
2 Bureau of Training Services, trains and certifies constables and  
3 deputy constables with annual in-service training required to  
4 maintain certification; and

5       WHEREAS, The Pennsylvania Emergency Health Services Council  
6 has Critical Incident Stress Management Teams available at the  
7 county level to assist constables and deputy constables who are  
8 involved in shootings or other critical incidents; and

9       WHEREAS, Constables' Education and Training Board regulations  
10 are set forth in Title 37 of the Pennsylvania Code; and

11       WHEREAS, Constable system reforms could include, but are not  
12 limited to, expanded court supervision, uniform standards and  
13 procedure for reporting misconduct or abuse; therefore be it

14       RESOLVED, That the House of Representatives direct the Joint  
15 State Government Commission to study and make recommendations on  
16 the constable system in Pennsylvania; and be it further

17       RESOLVED, That the Joint State Government Commission file a  
18 report of its findings and recommendations with the Chief  
19 Justice of the Supreme Court of Pennsylvania and the majority  
20 chair and the minority chair of the Judiciary Committee of the  
21 House of Representatives not later than one year after the  
22 adoption of this resolution.



**APPENDIX B**  
**Certified Constables By County in 2013**

<b>Certified Constables By County In 2013</b>				
<b>County Name</b>	<b>Certified</b>	<b>Not Certified</b>	<b>Active</b>	<b>Firearms Certified</b>
Adams	22	3	25	18
Allegheny	234	57	291	193
Armstrong	24	13	37	17
Beaver	27	12	39	22
Bedford	3	2	5	2
Berks	65	15	80	54
Blair	9	15	24	6
Bradford	12	7	19	10
Bucks	45	15	60	31
Butler	18	10	28	14
Cambria	27	10	37	20
Cameron	1	0	1	0
Carbon	13	3	16	8
Centre	13	9	22	9
Chester	60	25	85	34
Clarion	3	3	6	2
Clearfield	11	5	16	5
Clinton	5	3	8	5
Columbia	5	6	11	3
Crawford	10	10	20	6
Cumberland	21	8	29	19
Dauphin	29	23	52	21
Delaware	61	19	80	55
Elk	2	2	4	1
Erie	25	10	35	20
Fayette	46	19	65	43
Forest	0	0	0	0
Franklin	8	8	16	7
Fulton	1	1	2	1
Greene	10	9	19	10
Huntingdon	4	6	10	4
Indiana	13	12	25	10
Jefferson	14	7	21	7
Juniata	2	1	3	2

<b>Certified Constables By County In 2013</b>				
<b>County Name</b>	<b>Certified</b>	<b>Not Certified</b>	<b>Active</b>	<b>Firearms Certified</b>
Lackawanna	30	16	46	22
Lancaster	65	16	81	56
Lawrence	12	5	17	9
Lebanon	18	8	26	17
Lehigh	25	11	36	22
Luzerne	59	33	92	52
Lycoming	11	19	30	11
Mckean	6	7	13	5
Mercer	13	12	25	8
Mifflin	4	8	12	4
Monroe	19	10	29	16
Montgomery	57	29	86	35
Montour	1	0	1	1
Northampton	31	14	45	31
Northumberland	11	7	18	8
Perry	13	4	17	12
Philadelphia	0	0	0	0
Pike	12	3	15	12
Potter	4	3	7	4
Schuylkill	15	12	27	12
Snyder	3	5	8	3
Somerset	7	2	9	3
Sullivan	0	1	1	0
Susquehanna	6	4	10	4
Tioga	8	11	19	6
Union	4	1	5	3
Venango	13	6	19	12
Warren	8	5	13	7
Washington	59	23	82	46
Wayne	14	8	22	12
Westmoreland	59	18	77	44
Wyoming	2	5	7	2
York	36	21	57	31
<b>Totals</b>	<b>1468</b>	<b>675</b>	<b>2143</b>	<b>1169</b>

Report Date: 12/31/2013

\*Due to changing term dates, insurance dates, and certification dates, this list is valid only on the day it is generated.

Reporting Date 04/2014.

**APPENDIX C**  
**Current Constabulary Compensation**

---

<b>Current Constabulary Compensation</b>		
<b>Fee Type -- Civil Process § 7161(f) (includes landlord-tenant)</b>	<b>Amount</b>	<b>Mileage<sup>252</sup></b>
Serving complaint, summons or notice (personally or by leaving a copy)	\$13 + \$5 for each additional defendant at same address; \$2.50 for each return of service	Yes
Levying goods, including schedule of property, notice of levy & return of service	\$75	Yes
Advertising personal property for public sale	\$7 per posting (max of \$21) + actual costs of ads	Yes
Selling goods levied, receipts & returns for court	\$85	Yes
Making return of not found	\$13 (limit of three returns)	Yes
Executing order of possession	\$13 + \$5 for each additional defendant at same address; \$2.50 for each return of service	Yes
Ejectment	\$90; \$2.50 for each return of service	Yes
Any return of service (other than not found)	\$2.50 each	No
Providing courtroom security, as ordered	\$13 per hour, assessed against one or more parties as determined by the court	No

---

<sup>252</sup> Mileage reimbursement – Actual for motor vehicle at highest rate allowed by Internal Rev. Serv.; other than motor vehicle, for actual vouchered travel. 44 Pa.C.S. §7161(a), (f).

<b>Current Constabulary Compensation</b>		
<b>Fee Type -- Criminal Process § 7161(g)</b>	<b>Amount</b>	<b>Mileage<sup>253</sup></b>
Executing a warrant of arrest, effectuating the payment of fines and costs by attempting to execute each warrant	\$25 per docket number; \$2.50 for each return of service	Yes
Taking custody of a defendant	\$5 per defendant	No
Conveyance of defendant to or from court	\$5 per defendant	No
Attendance at arraignment or hearing	\$13	No
Executing discharge	\$5 per defendant	No
Executing commitment	\$5 per defendant	No
Executing release	\$5 per defendant	No
Making returns to the court	\$2.50	No
Transporting each nonincarcerated defendant to jail	\$17 (+ commitment & return to court payment, if any)	Yes
Transporting each incarcerated prisoner to jail	\$38 per prisoner +\$13 per hour per prisoner (after 1st hour, not to exceed \$26 per hour per constable) <sup>254</sup>	Yes
Conveyance of defendants for fingerprinting	\$17 per defendant + \$13per hour per defendant (after 1st hour, not to exceed \$26 per hour per constable)	Yes
Holding defendants at the office Of magisterial district judge	\$13 per hour per defendant (after 1st half hour)	No
Providing courtroom security, as ordered	\$13 per hour assessed against one or more parties as determined by the court	No

<sup>253</sup> Mileage reimbursement – Actual for motor vehicle at highest rate allowed by Internal Rev. Serv.; other than motor vehicle, for actual vouchered travel. *Id.* §7161(a), (g).

<sup>254</sup> Receipt of this fee excludes the receipt of fees for custody, conveyance, attendance & release.

<b>Current Constabulary Compensation</b>		
<b>Other compensation</b>	<b>Amount</b>	<b>Mileage</b>
Serving district court-issued subpoenas (includes attempts when wrong address was supplied by requesting party) <sup>255</sup>	\$13 + \$5 for each additional witness at same address; \$2.50 for each return of service	Yes
Services not specifically provided for <sup>256</sup>	Same fees paid for similar services	Maybe
Attendance on court & making returns <sup>257</sup>	\$2.50 per day	No
Serving notices of their election on township & borough officials <sup>258</sup>	15¢ per service	No
Serving writs in juvenile cases <sup>259</sup>	Same as for similar services in criminal cases	No
Preserving the peace & serving at all elections <sup>260</sup>	Same compensation payable to inspectors and clerks <sup>261</sup>	No
Impounding <sup>262</sup>	\$1 per animal (but \$2 per animal if sold) up to \$4	No
Seizure of (vehicular) registration plate <sup>263</sup>	\$15 per registration plate & card jointly seized <sup>264</sup>	Yes
Seizure of surrendered driver's license <sup>265</sup>	\$15 per driver's license <sup>266</sup>	Yes
Permanent fee on all citations except summary traffic citations with a guilty plea <sup>267</sup>	\$2.25	N/A

<sup>255</sup> 44 Pa.C.S. §7161(h).

<sup>256</sup> *Id.* §7161(i).

<sup>257</sup> *Id.* §7161.1(a).

<sup>258</sup> *Id.* §7161.1(b).

<sup>259</sup> *Id.* §7161.1(c).

<sup>260</sup> *Id.* §7163. This includes pay to serve notices of election. *Id.*

<sup>261</sup> This amount is fixed by the cnty. bd. of elections but ranges from \$70-195/election. Act of June 3, 1937 (P.L.1333, No.320), § 412.2; 25 Pa. Stat. Ann. § 2692.2.

<sup>262</sup> 44 Pa.C.S. §7164(a).

<sup>263</sup> *Id.* §7165(a).

<sup>264</sup> Payable by Dep't of Transp. if auth. to seize is delegated under 75 Pa.C.S. § 1376 due to suspension or revocation of registration.

<sup>265</sup> 44 Pa.C.S. §7165(b).

<sup>266</sup> Payable by Dep't of Transp. if auth. to seize is delegated under 75 Pa.C.S. § 1540(c) due to an order to surrender.

<sup>267</sup> Shall be deposited in the Criminal Justice Enhancement Account.

## Notes:

- To obtain a fee or mileage reimbursement for making a return to a court of common pleas, the court must have required the return.<sup>268</sup>
- A surcharge of \$5 per case in criminal and \$5 per docket number and \$5 per defendant in civil cases, deposited into Constables Education and Training Restricted Account. (§ 7149)
- Reapportionment (§ 7161(b)) – If more than one defendant is transported simultaneously, reimbursement shall be for actual miles traveled and travel costs divided between or among the defendants.
- Additional persons (§ 7161(c)) – In such cases where, at the constable’s discretion, they may be accompanied by a second or deputy constable, each officer shall receive the fees set in § 7161. In all other cases outside serving a misdemeanor or felony warrant on a juvenile, person for the opposite sex, or transporting a prisoner, issuing authority may authorize payment for a second officer.
- Civil and landlord & tenant cases (§ 7161(d)) – Fees must be paid in advance to the court for services desired and are non-refundable to the plaintiff. If a case is settled less than 48 hours prior to sale or ejectment, the Constable or deputy must still be paid.
- All fees shall be paid by the court to the constable as soon as possible but in no case more than 15 days in civil and landlord & tenant, and 30 days in criminal after the service is performed. (§ 7161(e))
- In all criminal cases where defendant is discharged or indigent or the case is dismissed, the court shall assess the county the fee provided in this section, except when a private criminal complaint is discharged prior to indictment, or the filing of any information or the case is otherwise dismissed at the summary hearing, where the court shall assess fees to the affiant. (§ 7161(g)(16))

---

<sup>268</sup> 44 Pa.C.S. §7162.

## APPENDIX D

### Education & Training Requirements of Selected Enforcement Officers

Education & Training Requirements of Selected Enforcement Officers								
Officers	MPOETC <sup>269</sup> required	Basic Education & Training	Practical	Firearms Qualification	Continuing Education & Training	Training Institute	Statutory Training Authorities	Statutory Powers & Duties Authorities
Constables & their deputies	No	80 hrs. <sup>270</sup>	No	40 hrs. optional to carry or use to perform duties <sup>271</sup>	Up to 40 hrs. per yr. <sup>272</sup> 20 hrs. per yr. firearms re-qualification	3 Regional Training Institutions.	44 Pa.C.S. ch. 71 subch. E	44 Pa.C.S. ch. 71 subch. F
Pa. State Police Trooper*	No	27 wks., <sup>273</sup> (1,181 total hrs.) 607 hrs. of classroom instruction	462 hrs. + 112 combo (including physical conditioning)	Yes	32-40 hrs. per yr. 16 hrs. of Firearms 8 hr. in-service refreshers 8 hrs. CPR/First Aid 8 hrs. Legal Update	Pa. State Police Academy	Act of Apr. 9, 1929 (P.L.177, No.175), § 711(a), (a.1) <sup>274</sup>	Act of Apr. 9, 1929 (P.L.177, No.175), §§ 710, 712 <sup>275</sup>
Gaming Enforcement Trooper <sup>276*</sup>	No	Same as Pa. State Police + approximately 24 hrs. of applicable material	Same as Pa. State Police	Yes	Same as Pa. State Police	Pa. State Police Academy	--	4 Pa.C.S. Pt. II
Liquor Control Enforcement Trooper <sup>277*</sup>	No	Same as Pa. State Police +approximately 24 hrs. of applicable material	Same as Pa. State Police	Yes	Same as Pa. State Police	Pa. State Police Academy	--	Act of Apr. 12, 1951 (P.L.90, No.21), § 211 <sup>278</sup>
Liquor Enforcement Officer <sup>279</sup>	No	16 wks. 1030 hrs.	Yes	75 hrs.	Yes, Annual weapons qualification and proficiency training	16 wk. basic Training program at PSP Academy	--	Act of April 12, 1951 (P.L.90, No.21) §211

<sup>269</sup> Municipal Police Officers' Education and Training Commission.

<sup>270</sup> Content is regulatorily determined, but it must include their statutory fees. 44 Pa.C.S. § 7145.

<sup>271</sup> Standards for certification or qualification is regulatory. *Id.* § 7148.

<sup>272</sup> *Id.* § 7146.

<sup>273</sup> Residential.

<sup>274</sup> 71 P.S. § 251(a), (a.1).

<sup>275</sup> *Id.* §§ 250, 252.

<sup>276</sup> Gaming Enforcement Trooper is an operational Bureau of the Pa. State Police, and troopers assigned to this Bureau are graduates of the Pa. State Police Academy, who receive the same practical, physical and firearms training with additional hours of specific supplemental material.

<sup>277</sup> Liquor Control Enforcement Trooper is an operational Bureau of the Pa. State Police, and troopers assigned to this Bureau are graduates of the Pa. State Police Academy, who receive the same practical, physical, and firearms training with additional hours of specific supplemental material.

<sup>278</sup> 47 P.S. § 2-211.

<sup>279</sup> Liquor Enforcement Officers are civilian employees of the Pa. State Police and receive training that is not as extensive as that of Trooper.

Education & Training Requirements of Selected Enforcement Officers								
Officers	MPOETC <sup>269</sup> required	Basic Education & Training	Practical	Firearms Qualification	Continuing Education & Training	Training Institute	Statutory Training Authorities	Statutory Powers & Duties Authorities
Municipal Police departments, colleges, universities, rail, transit & airport authorities*	Yes	758 hrs.	192 hrs.	72 hrs.	Mandatory in- service of at least 12 hrs. acad. & qualification on firearms course <sup>280</sup>	25 Certified Schools	53 Pa.C.S. §§ 2164, 2167	42 Pa.C.S. §§ 8952-8954; Act of Apr. 9, 1929 (P.L.177, No.175), § 2416.1 <sup>281</sup>
Sheriff*	No	No Current Training Requirements	--	--	--	--	--	Act of Aug. 9, 1955 (P.L.323, No.130), §§ 1201, 1202, 1204, 1205, 1210, 1213 & 1215 <sup>282</sup>
Deputy Sheriff*	No	Minimum of 160 hrs. statutorily and not greater than 760 hrs. regulatorily <sup>283</sup>	Yes <sup>284</sup>	80 hrs.	At least 20 hrs. per 2 yrs.	19 wk. basic training residency program at PSU, 17 locations for con. Ed.	Act of Feb.9, 1984 (P.L.3, No.2), §§ 4-7 <sup>285</sup>	Act of Aug. 9, 1955 (P.L.323, No.130), §§ 1202-1205 <sup>286</sup>
Capitol Police*	Yes	758 hrs.	192 hrs.	80 hrs.	Mandatory in-service (at least 12 hrs. acad. & qualification on firearms course) <sup>287</sup>	25 Certified Schools	53 Pa.C.S. §§ 2164, 2167	Act of Apr. 9, 1929 (P.L.177, No.175), § 2416 <sup>288</sup>
Wildlife Conservation Officer *	No	50 wks. 1446 total hrs.	+10 wk. on-the-job	Minimum of 78 hrs.	Annual <sup>289</sup> in- service training, firearms re-qualification twice per yr.	Residency at R. Leffler Sch. of Conservation	34 Pa.C.S. § 303	34 Pa.C.S. § 901
Deputy Wildlife Conservation Officer <sup>290</sup>	No	75 hrs. (in one wk.)	+ 80 hrs. on-the-job	32 hrs. over four phases	Annually <sup>291</sup> firearms re- qualification twice per yr.	R. Leffler Sch. of Conservation	34 Pa.C.S. § 304	34 Pa.C.S. § 902

<sup>280</sup> 37 Pa. Code § 203.52.

<sup>281</sup> This applies to campus police. 71 P.S. § 646.1.

<sup>282</sup> 16 P.S. §§ 1201, 1202, 1204, 1205, 1210, 1213, & 1215.

<sup>283</sup> 37 Pa. Code § 421.3(a).

<sup>284</sup> Deputy Sheriff's receive practical training in areas of mechanics of arrests, defensive tactics, OC spray, and baton.

<sup>285</sup> 71 P.S. §§ 2104-2107.

<sup>286</sup> 16 P.S. §§ 1202-1205.

<sup>287</sup> 37 Pa. Code § 203.52.

<sup>288</sup> 71 P.S. § 646.

<sup>289</sup> Mandated officer skills training shall include the topics of firearms, defensive tactics training, legal updates, use of force, hazmat, conducted electrical weapons, first aid, and verbal communications skills.

<sup>290</sup> Part-time volunteers.

<sup>291</sup> At least six district training meetings are held annually, including the same mandatory topics of WCO's, minus the first aid requirement.



Education & Training Requirements of Selected Enforcement Officers								
Officers	MPOETC <sup>269</sup> required	Basic Education & Training	Practical	Firearms Qualification	Continuing Education & Training	Training Institute	Statutory Training Authorities	Statutory Powers & Duties Authorities
Waterways Conservation Officer*	Yes	22 weeks at Pa. State Police Academy +19 wks.at H. R. Stackhouse Sch.	+7 wks. field & 5 wks. on-the-job	Minimum 72 hrs.	3-5 days annually (non-consecutive) at Stackhouse School for firearms and OC spray re- qualification, Act 180 legal updates and def. tactics updates	Residency at H. R. Stackhouse Sch. of Fisheries, Conservation & Watercraft Safety	--	30 Pa.C.S. §§ 901(a), 902, 905
Deputy Waterways Conservation Officer <sup>292</sup>	No	250 hrs. total at minimum	+150 hrs. of on-the-job training	Lethal Weapons Training Act certification, or equivalent	Annual in-service as required by Pa. Fish & Boat Commission	100-120 hrs. of training at H. R. Stackhouse Sch.	30 Pa.C.S. § 305(a)	30 Pa.C.S. §§ 305(c), 901, 902, 905
Private Security, Armored Truck, Alarm Response Guards, Night Watchman and Investigators	No	40 hrs. Physical, Psychological and Academic requirements <sup>293</sup>	Yes	Yes	Recertification Every 5 yrs., required 8 hr. renewal course	36 Pa. State Police certified training schools	--	Act of October 10, 1974 (P.L.705, No.235) <sup>294</sup>
DCNR Rangers*	Yes	758 hrs. +Bureau Specific Training <sup>295</sup>	192 hrs.	80 hrs.	16 hrs. Annual Training Firearms qualification 2 times first 2 yrs., 1 per yr. thereafter	MPOETC or 22 wks. at Pa. State Police Academy	--	Act June 28, 1995 (P.L.89, No.18), § 303(a)(7) <sup>296</sup> ; 75 Pa.C.S. § 6313(a)
Corrections Officer*	No	6 wks. total, 2 wks. of orientation, 4 wks. At Academy	+1 yr. on the job	Yes Minimum 5 hrs.	Yes, 5 hrs. annual firearms requalification	Department of Corrections Training Academy	--	61 Pa.C.S. § 102
State Parole Agents*	No	8 wks.	4 phase on-the-job over 6 mos.	Yes 80 hrs.	Minimum of 40 hrs. Annually, including 12 hrs. firearms requalification	PBPP Basic Training Academy	61 Pa.C.S. § 6306	61 Pa.C.S. §§ 6102, 6152, 6153

<sup>292</sup> Part-time volunteers.

<sup>293</sup> Basic training as set forth in the Lethal Weapons Training Act, Act of October 10, 1974 (P.L.705, No.235), 22 P.S. §§ 41-50.1.

<sup>294</sup> 22 P.S. §§ 41-50.1.

<sup>295</sup> After MPOETC or Pa. State Police Academy, ranger trainees are separated into Parks and Forest Bureaus, which receive slightly different training. Parks personnel receive crowd and traffic control, water rescue, and sensitivity training while Forests receives wildlife, habitat, and plant life training.

<sup>296</sup> 71 P.S. § 1340.303(a)(7).

Education & Training Requirements of Selected Enforcement Officers								
Officers	MPOETC <sup>269</sup> required	Basic Education & Training	Practical	Firearms Qualification	Continuing Education & Training	Training Institute	Statutory Training Authorities	Statutory Powers & Duties Authorities
Revenue Enforcement Agents	No <sup>297</sup>	No	Yes Minimum 6-mos on-the-job training	No	Annual training updates from various Federal/State/Local law enforcement <sup>298</sup>	Pa. State Police, Board of Probation and Parole	--	Act of March 4, 1971 (P.L.6, No.2) <sup>299</sup>
House of Representatives Security	No <sup>300</sup>	160 hours + Pa. emergency medical responder certification <sup>301</sup>	Yes Minimum 6-mos. on-the-job training	No	Biannual emergency responder required updates, <sup>302</sup> +1 wk. of other annual training including baton/OC spray	Temple Univ. for Basic, HACC for Annual	--	Rules of the House of Rep's, Nos. 3, 16, 50, 51
Senate of Pa. Security	No <sup>303</sup>	Pa. emergency medical responder certification	No	No	Biannual emergency responder required updates, +other annual training updates <sup>304</sup>	HACC for Basic	--	Rules of the Senate No. 8
PUC Motor Carrier Enforcement Officers*	No <sup>305</sup>	MCSAP <sup>306</sup> training, Certified Inspection Mechanics	+6 mos. on-the-job training	No	Federal MCSAP 3 day refresher training	MCSAP certified instructors at PUC and Pa. State Police train through program	--	66 Pa.C.S. § 307, 75 Pa.C.S. § 4704

Note: \* Designates all authorized JNET users. Not all agencies that are authorized are registered for or actively use JNET, while other agencies have central, supervisory access with limited individual officer/agent access.

<sup>297</sup> Prerequisites include a bachelor's degree in criminal justice, auditing or a related field, with a preference given to candidates with a law enforcement or investigative background, training or certification.

<sup>298</sup> Department of Revenue investigators do not have any required annual training, but each agent completes some form of annual training through various Federal, State or Local law enforcement offerings. Special Investigators may have additional training relative to their specific assignments.

<sup>299</sup> 72 P.S. Ch. 5.

<sup>300</sup> Prerequisites include a bachelor's degree in criminal justice or a related field, and preference is given to applicants who have completed MPOETC, Lethal Weapons or Deputy Sheriff's Training.

<sup>301</sup> Practical training includes taser qualification, handcuffing, defensive tactics, OC spray, baton, first aid, and physical fitness; 35 Pa. C.S., §8114.

<sup>302</sup> 28 Pa. Code, §1023.31(b).

<sup>303</sup> Preference is given to applicants who have completed MPOETC, Lethal Weapons or Deputy Sheriff's Training.

<sup>304</sup> Senate Security does not have any additional required annual training, but each officer completes some form of annual training each year through either Capitol Police or HACC.

<sup>305</sup> Prerequisites include a bachelor's degree in criminal justice or related field with preference given to experience with utility regulation or safety inspections.

<sup>306</sup> Motor Carrier Safety Assistance Program is a Federal grant program administered by the Federal Motor Carrier Safety Administration.

## APPENDIX E

### PA Statutes (excluding 44 Pa.C.S. ch.71) Referencing Constables

---

#### PA Statutes (excluding 44 Pa.C.S. ch. 71) Referencing Constables

Pa. Statute <sup>307</sup>	Authority
3 Pa.C.S. § 2328	Dep't of Agric. employee w/search warrant has same authority as constable in its execution
18 Pa.C.S. § 2702	Aggravated assault on a constable or his deputy (in perf. of duty) is 2d degree felony
18 Pa.C.S. § 6106(b)(1)	Excepts constables & their deputies from the crime of unlicensed carrying of firearms
18 Pa.C.S. § 6161(1)	Conductor of a conveyance can arrest & detain a person carrying an explosive until the person can be delivered to a constable
18 Pa.C.S. § 7504(b)	Municipally appointed constables who aren't Commw. citizens are excepted from this 3d degree misdemeanor
34 Pa.C.S. § 304(c)	Executive dir. of Pa. Game Comm'n can authorize any deputy game comm'n officer to be paid constabulary fees assessed & collected as costs of prosecution for servs. performed enforcing Game & Wildlife Code
42 Pa.C.S. § 1725.1(d)	No charge assessed v. constable for issuance of search warrant
51 Pa.C.S. § 5201(e)	Ct-martial convening authority can issue warrants of apprehension to constables
51 Pa.C.S. § 6108	Constable's refusal to execute process, properly return penalties collected or receive prisoner in custody equals misdemeanor
51 Pa.C.S. § 6109(a)	Constables get transp. furnished to & from cts.-martial & cts. of inquiry & the same fees they get to serve process that they would get civilly
53 Pa.C.S. § 3165(a)	Municipality's adoption of optional plan doesn't terminate term of any constable
61 Pa.C.S. § 1154	Constables can use borough & twp. lockups & cnty. correctional insts. to detain arrestees up to 48 hours
61 Pa.C.S. § 1771	Constables get actual cost to transp. inmates to j. detention facilities & legal fees for servs.
61 Pa.C.S. § 1791	Constables get actual cost to transp. inmates to j. ind. farm & workhouse & legal fees for servs.
74 Pa.C.S. § 5903(a)(10)	Dep't of Transp. may provide police prot. in accord w/act of May 21, 1943 (P.L.469, No.210) <sup>308</sup>
75 Pa.C.S. § 1376(b)	Dep't of Transp. may delegate authority to seize a registration plate & card (that is required to be surrendered) to a constable

<sup>307</sup> Excludes 44 Pa.C.S. ch. 71. “[A]cts and parts of acts are repealed insofar as they are inconsistent with” ch. 71. Act of Oct. 9, 2009 (P.L.494, No.49, § 4(3)).

<sup>308</sup> 71 Pa. Stat. Ann. § 1791.1. “[O]n the premises of such building or installation, the persons so commissioned shall have all the powers and prerogatives conferred by law upon constables of the Commonwealth.” *Id.*

<b>Pa. Statute<sup>307</sup></b>	<b>Authority</b>
75 Pa.C.S. § 1540(c)	Dep't of Transp. may delegate authority to seize a driver's license (that was ordered to be surrendered) to a constable
75 Pa.C.S. § 3102	Requires compliance w/lawful order of uniformed constable authorized to regulate traffic
75 Pa.C.S. § 6309	Issuing authority may designate a constable to temporarily render a vehicle inoperable & direct enforcement of an impoundment order w/recoverable costs
75 Pa.C.S. § 6309.1	Issuing authority may designate a constable to temporarily render a vehicle inoperable & direct enforcement of an impoundment order w/recoverable costs
Act of Mar. 18, 1816 (P.L.160, No.109), § 14	Authorizes arrests w/warrants by constables at any place w/in Cnty. of Allegheny
Act of Apr. 3, 1851 (P.L.320, No.218), § 17 <sup>309</sup>	Borough electors annually elect one constable
Act of May 7, 1855 (P.L.479, No.509), § 4 <sup>310</sup>	Proprietor of inn can apply to magisterial dist. judge to get constable to sell baggage to cover indebtedness of lodging
Act of Apr. 9, 1873 (P.L.67, No.45) <sup>311</sup>	Night watchmen for organized cemeteries take oath similar to constables
Act of May 15, 1874 (P.L.186, No.120), § 1 <sup>312</sup>	Excluding active, U.S. military serv. during war, U.S. gov't employees may not be constables
Act of May 18, 1876 (P.L.179, No.148) <sup>313</sup>	Constables may not be twp. or borough auditors
Act of May 10, 1878 (P.L.51, No.72)	High constable elected in every borough divided into wards
Act of June 8, 1881 (P.L.67, No.72) <sup>314</sup>	Capitol police (capital complex) has same arrest power as constables
Act of June 10, 1881 (P.L.99, No.107)	Auditor gen. can have constables serve subpoenas on bank officers
Act of Apr. 26, 1883 (P.L.14, No.13) <sup>315</sup>	Horticultural societies may appoint police to preserve order on grounds (police have constabulary power in serving crim. process & making arrests)
Act of Apr. 24, 1885 (P.L.9, No.11) <sup>316</sup>	Constables are required to notify owners of mountain lands to destroy weeds
Act of May 18, 1876 (P.L.179, No.148) <sup>317</sup>	Constables may not be twp. or borough auditors
Act of May 19, 1887 (P.L.134, No.79)	Mileage computation for constables required to travel to cnty. seat to attend ct.; constable can be fined for neglecting this duty

<sup>309</sup> 25 P.S. § 42.

<sup>310</sup> 37 P.S. § 74.

<sup>311</sup> 9 P.S. § 7. This doesn't apply to police appointed for nonprofit corps. 22 Pa.C.S. § 501.

<sup>312</sup> 65 P.S. § 1.

<sup>313</sup> *Id.* § 6.

<sup>314</sup> 71 P.S. § 1564.1.

<sup>315</sup> 3 P.S. § 1 This doesn't apply to police appointed for nonprofit corps. 22 Pa.C.S. § 501.

<sup>316</sup> 3 P.S. § 243.

<sup>317</sup> 65 P.S. § 6.

Pa. Statute <sup>307</sup>	Authority
Act of June 1, 1887 (P.L.287, No.173) <sup>318</sup>	Constables may arrest on warrant issued under this act
Act of June 18, 1895 (P.L.203, No.124) <sup>319</sup>	Constables may not be on municipal bds. of health
Act of June 26, 1895 (P.L.333, No.248) <sup>320</sup>	Judicially approved night watchmen for real estate owners have powers “vested by law in constables” but can’t serve process
Act of June 26, 1895 (P.L.350, No.258), § 9 <sup>321</sup>	Constables can seize non-airtight apparatus removing contents of privy-well for dep’ts of pub. health in 2d class cities
Act of Mar. 30, 1897 (P.L.9, No.7), § 3 <sup>322</sup>	Constables can be suspended from office, fined & imprisoned for making false returns or neglect of duty
Act of June 4, 1897 (P.L.121, No.100), § 2 <sup>323</sup>	Constables can execute warrants for violations of borough ordinances
Act of Apr. 27, 1905 (P.L.312, No.218), §§ 7, 8(b) <sup>324</sup>	Sec’y of Health may issue warrants to constables to apprehend persons disobeying quarantine; Sec’y of Health may authorize persons to examine places on “questions affecting the security of life and health” (persons have “powers and authority conferred by law upon constables”)
Act of May 13, 1909 (P.L.781, No.601), § 19 <sup>325</sup>	Fire-wardens have “powers as by existing law are conferred upon constables”
Act of June 7, 1913 (P.L.462, No.308), §§ 1, 2 <sup>326</sup>	Constables may destroy unfit animals in their charge; authorizes magisterial dist. judges to order constables to humanely destroy unfit animals
Act of June 3, 1919 (P.L.369, No.180), § 1 <sup>327</sup>	Detectives “have all powers now conferred on constables by existing laws of this” Commw. relating to crimes or crim. procedure
Act of May 7, 1925 (P.L.557, No.300), §§ 2, 4 <sup>328</sup>	Prop. must be sold publicly in the same manner as personal prop. sold by a constable; sales of prop. under this act are conclusive to title conveyed as if sold by a constable
Act of May 11, 1927 (P.L.968, No.461), §§ 4, 8 <sup>329</sup>	Constables of twps. may assist dist. att’y investigations of ballroom licenses; constables of twps. may inspect ballrooms & vacate them for violations

<sup>318</sup> 32 P.S. § 580.

<sup>319</sup> 53 P.S. § 3751.

<sup>320</sup> *Id.* § 3704.

<sup>321</sup> *Id.* § 24575.

<sup>322</sup> 71 P.S. § 1313. This statute dates from when constables were *ex officio* fire wardens for boroughs & twps.; however this § was never repealed.

<sup>323</sup> 13 P.S. § 46.

<sup>324</sup> *Id.* §§ 1402, 1403(b).

<sup>325</sup> *Id.* § 1313. This statute dates from when constables were *ex officio* fire wardens for boroughs & twps.; however this § was never repealed.

<sup>326</sup> 3 P.S. §§ 325, 326.

<sup>327</sup> 16 P.S. § 7741. This § also authorizes cnty. detectives to investigate the conduct of constables, but “the office of constable” was subsequently “abolished” in that municipality. 44 Pa.C.S. § 7103.

<sup>328</sup> 6 P.S. §§ 12, 14.

<sup>329</sup> 53 P.S. §§ 54254, 54258.

Pa. Statute <sup>307</sup>	Authority
Act of Apr. 9, 1929 (P.L.177, No.175), §§ 712(a); 1906-A(7)(c), 1917-A(2), 2102(b) <sup>330</sup>	Pa. State Police have “powers and prerogatives conferred by law upon . . . constables”; Dep’t of Conservation & Nat. Res. appoints persons to preserve order in State parks w/”powers and prerogatives conferred by law upon constables”; Dep’t of Env’tl. Prot. & Dep’t of Health may authorize persons to examine places on “questions affecting the security of life and health” (persons have “powers and authority conferred by law upon constables”)
Act of May 8, 1929 (P.L.1643, No.510), § 6 <sup>331</sup>	Collectors of taxes in cities of 2d class A may not receive anything of value from a constable engaged to collect taxes
Act of June 23, 1931 (P.L.932, No.317), §§ 103(f), 1017, 2001, 2005, 2006 <sup>332</sup>	The 3d Class City Code doesn’t repeal acts relating to constables; constable can serve process for violation of ordinance; police may not be constables; police are <i>ex-officio</i> constables of the city; police charge same fee & costs as constables to serve & execute process for violation of city ordinances
Act of June 24, 1931 (P.L.1206, No.331), §§ 103(e), 1002, 1401, 1403, 1404, 3301 <sup>333</sup>	The 1 <sup>st</sup> Class Twp. Code doesn’t repeal acts relating to constables; constables execute & serve subpoenas from twp. auditors; authorizes police in twps. of the 1 <sup>st</sup> class to simultaneously be constables; police are <i>ex-officio</i> constables of twp.; police charge same fees as constables for executing crim. process for violation of twp. ordinance; constable can serve warrant for violation of twp. ordinance
Act of Aug. 26, 1932, 1 <sup>st</sup> Spec. Sess. (P.L.101, No.57) <sup>334</sup>	Constable collecting delinquent taxes may accept installment payments upon request
Act of May 1, 1933 (P.L.103, No.69), § 103(a)(5) <sup>335</sup>	The 2d Class Twp. Code doesn’t repeal acts relating to constables
Act of June 3, 1937 (P.L.1333, No.320), §§ 913(b.1)(7), 978.1, 1207, 1220(f), 1302.1(a.2), 1405, 1811, 1821 <sup>336</sup>	Filing fee for nomination petition for constable equals \$10; judge of election may call upon constable to keep more than 1 person away from voting machine booth & close polls; constables refusing to quell disturbances at polling places when called upon to do so or hindering judges of election equals misdemeanor; judge can direct constable to deliver an absentee ballot; conditions cnty. bd. authority to certify votes on irregular ballots for primary election of constable, party nomination of constable is vacated if filing fee remains unpaid before election
Act of June 4, 1937 (P.L.1595, No.324), § 5 <sup>337</sup>	Constables may not perf. official duties for corps. (but may serve “legal process as now authorized by law”)
Act of July 2, 1941 (P.L.231, No.106), § 1 <sup>338</sup>	Excluding active, U.S. military serv. during war, U.S. gov’t employees may not be constables
Act of July 31, 1941 (P.L.616, No.261), § 25 <sup>339</sup>	Sec’y of Labor & Indus. appoints inspectors to execute & serve warrants & processes of law “in the same manner as constables”

<sup>330</sup> 71 P.S. §§ 252(a); 510-6(7)(c); 510-17(2), 532(b).

<sup>331</sup> 53 P.S. § 30787.

<sup>332</sup> *Id.* §§ 35103(f), 36017, 37001, 37005, 37006.

<sup>333</sup> *Id.* §§ 55103(e), 56002, 56401, 56403, 56404, 58301.

<sup>334</sup> 72 P.S. § 5671.

<sup>335</sup> 53 P.S. § 65103(a)(5).

<sup>336</sup> 25 P.S. §§ 2873(b.1)(7), 2938.1, 3047, 3060(f), 3146.2a(a.2), 3155, 3511, 3521.

<sup>337</sup> 16 P.S. § 7514. This is repealed to all but one class of counties.

<sup>338</sup> 65 P.S. § 1.

<sup>339</sup> 43 P.S. § 579.

Pa. Statute <sup>307</sup>	Authority
Act of Apr. 13, 1942, 1 <sup>st</sup> Spec. Sess. (P.L.32, No.13), § 8.1 <sup>340</sup>	As applied to obstructing U.S. defense during nat'l emergency, foresters, forest rangers & fish wardens have "the same powers as are by law conferred upon constables"
Act of May 21, 1943 (P.L.469, No.210), §§ 1, 1.1 <sup>341</sup>	Admin. dep'ts w/Commw. buildings can certify police for the premises w/"all . . . powers and prerogatives conferred by law upon constables"
Act of Apr. 17, 1945 (P.L.236, No.106), § 1 <sup>342</sup>	Del. River J. Toll Bridge Comm'n police "have . . . powers conferred by law on . . . constables in the enforcement of laws and the apprehension of violators."
Act of May. 25, 1945 (P.L.1050, No.394), § 17 <sup>343</sup>	Tax collector levying goods of delinquent taxpayer gets charges allowed constables for similar servs.
Act of Mar. 10, 1949 (P.L.30, No.14), § 322 <sup>344</sup>	Constables are ineligible to be sch. dirs.
Act of May 2, 1949 (P.L.873, No.237), § 2 <sup>345</sup>	Annual rep. of political subdiv. elected officers to Dep't of Community & Econ. Dev. excludes constables
Act of Apr. 6, 1951 (P.L.69, No.20), §§ 103(10), 309 <sup>346</sup>	Fees of constables are excluded from this act; after appraisalment, constable fixes day, time & place of sale
Act of Jul. 28, 1953 (P.L.723, No.230), § 1440(b), 1441, 1501(b)(3), 1927, 3104, 3107 <sup>347</sup>	Cnty. detectives investigate conduct of constables; "have all powers now conferred on constables by existing laws of this" Commw. relating to crime or crim. procedure; dist. att'y may appoint special detective w/ "powers . . . conferred on constables by . . . existing laws of this" Commw. relating to crimes or crim. procedure; police have powers and prerogatives conferred by law upon constables of the" Commw.; controller can direct warrant to constable to commit person to cnty. jail for refusing to be sworn or answer exam on pub. accounts; fire marshal can call upon constable for assistance; constable refusing order of fire marshal = misdemeanor
Act of Aug. 9, 1955, (P.L.323, No.130), §§ 1247, 1440, 1441, 2781 <sup>348</sup>	Coroner can direct warrant to constable to commit person to cnty. jail for refusing to be sworn or answer at inquest; cnty. detectives investigate conduct of constables; have "powers conferred on constables by the laws of this" Commw. relating to crim. law & procedures; dist. att'y may appoint special detective w/"powers . . . conferred on constables by . . . existing laws of this" Commw. relating to crimes or crim. procedure; aretakers of cnty. roads "have all the power and authority now vested by law in . . . constables"
Act of Apr. 23, (1956) 1955 (P.L.1510, No.500), § 19(b) <sup>349</sup>	Authorizes constables to apprehend quarantined persons who left a State inst. sans consent of its med. dir.

<sup>340</sup> 35 P.S. § 2108.1.

<sup>341</sup> 71 P.S. §§ 1791, 1791.1.

<sup>342</sup> 36 P.S. § 3305.

<sup>343</sup> 72 P.S. § 5511.17.

<sup>344</sup> 24 P.S. § 3-322.

<sup>345</sup> 71 P.S. § 966.2.

<sup>346</sup> 68 P.S. §§ 250.103(10), 250.309. Pa. Minor Ct. Civ. R. 506, 516, 520 relates to: magisterial dist. judge issues complaint to certified constable; magisterial dist. judge issues order of possession directed to constable; executing constable returns order for possession to magisterial dist. judge.

<sup>347</sup> 16 P.S. § 4440(b), 4441, 4501(b)(3), 4927, 6104, 6107.

<sup>348</sup> *Id.* §§ 1247, 1440, 1441, 2781.

<sup>349</sup> 35 P.S. § 521.19(b).

Pa. Statute <sup>307</sup>	Authority
Act of July 15, 1957 (P.L.901, No.399), § 624(a) <sup>350</sup>	Terms of constables aren't abolished on effective date of adopted optional plan by 3d class city
Act of July 31, 1963 (P.L.410, No.217), § 5(a)(3) <sup>351</sup>	Law regulating fire sales doesn't affect constables "acting in accordance with their powers and duties"
Act of Nov. 10, 1965 (P.L.721, No.346), § 1006 <sup>352</sup>	Constable may not summon a disqualified juror for an inquest on a mine accident
Act of Dec. 31, 1965 (P.L.1257, No.511), § 701.1 <sup>353</sup>	Authorizes tax collectors & officers to charge similarly as constables for similar servs. by distress & sale of goods of delinquent taxpayers
Act of Feb. 1, (1966) 1965 (P.L.1656, No.581), §§ 102(6), 234 <sup>354</sup>	The Borough Code doesn't repeal acts relating to constables; constables in cities of the 3d class converting to borough gov't remain in office until terms end
Act of Oct. 20, 1966, 3d Spec. Sess. (P.L.96, No.6), §§ 419(b), 425(c) <sup>355</sup>	Constables may apprehend mentally disabled persons whose leaves of absence from a facility are terminated; constables may apprehend escapees from insts. for mentally disabled patients
Act of Feb. 10, 1970 (P.L.2, No.2), § 2 <sup>356</sup>	Phila. Municipal Ct. officers perf. duties previously done by constables under The Landlord & Tenant Act of 1951 <sup>357</sup>
Act of Dec. 7, 1982 (P.L.784, No.225), §§ 102, 302(b) <sup>358</sup>	Police officer includes constables; constables detain seized, licensed dogs, notify licensees & dispense dogs
Act of Dec. 19, 1990 (P.L.1200, No.202), § 3 <sup>359</sup>	Defines law enforcement personnel as "[a]ny person who is or represents" constables
Act of June 28, 1995 (P.L.89, No.18), §§ 302(c), 303(a)(7)(iii) <sup>360</sup>	Dep't of Conservation & Nat. Res. employees protecting State parks are "vested with the same powers as are by existing laws conferred upon constables"; dep't may appoint persons to preserve order in State parks "[t]o have all the powers and prerogatives conferred by law upon constables"
Act of July 2, 1996 (P.L.518, No.87), § 8(b) <sup>361</sup>	Secretary of Health "and all persons so authorized by him . . . have the powers and authority conferred by law upon constables."
Act of Nov. 24, 1998 (P.L.882, No.111), 212(f)(2) <sup>362</sup>	In personal injury crimes, a constable must notify the victim of an inmate's escape from his custody

<sup>350</sup> 53 P.S. § 41624.

<sup>351</sup> *Id.* P.S. § 4471-5(a)(3).

<sup>352</sup> 52 P.S. § 70-1006.

<sup>353</sup> 53 P.S. § 6924.701.1

<sup>354</sup> *Id.* §§ 45102(6), 45234.

<sup>355</sup> 50 P.S. §§ 4419(b), 4425(c).

<sup>356</sup> Writs may be served outside Phila. by constables. Phila. M.C.R. Civ. P. 111(A).

<sup>357</sup> Act of Apr. 6, 1951 (P.L.69, No.20).

<sup>358</sup> 3 P.S. §§ 459-102, 459-302(b).

<sup>359</sup> 10 P.S. § 162.3.

<sup>360</sup> 71 P.S. §§ 1340.302(c), 1340.303(a)(7)(iii).

<sup>361</sup> 71 P.S. § 1403(b).

<sup>362</sup> 18 P.S. § 11.212(f)(2).