

# **JOINT STATE GOVERNMENT COMMISSION**

**General Assembly of the Commonwealth of Pennsylvania**

## **POLICE POWERS TO MAKE ARRESTS, CARRY FIREARMS, AND OTHER ENFORCEMENT AUTHORIZATIONS IN PENNSYLVANIA**

**DECEMBER 2020**



*Serving the General Assembly of the  
Commonwealth of Pennsylvania Since 1937*

**REPORT**

*Police Powers to Make Arrests, Carry Firearms,  
and Other Enforcement Authorizations in Pennsylvania*

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The Joint State Government Commission was created in 1937 as the primary and central non-partisan, bicameral research and policy development agency for the General Assembly of Pennsylvania.<sup>1</sup>

A fourteen-member Executive Committee comprised of the leadership of both the House of Representatives and the Senate oversees the Commission. The seven Executive Committee members from the House of Representatives are the Speaker, the Majority and Minority Leaders, the Majority and Minority Whips, and the Majority and Minority Caucus Chairs. The seven Executive Committee members from the Senate are the President Pro Tempore, the Majority and Minority Leaders, the Majority and Minority Whips, and the Majority and Minority Caucus Chairs. By statute, the Executive Committee selects a chairman of the Commission from among the members of the General Assembly. Historically, the Executive Committee has also selected a Vice-Chair or Treasurer, or both, for the Commission.

The studies conducted by the Commission are authorized by statute or by a simple or joint resolution. In general, the Commission has the power to conduct investigations, study issues, and gather information as directed by the General Assembly. The Commission provides in-depth research on a variety of topics, crafts recommendations to improve public policy and statutory law, and works closely with legislators and their staff.

A Commission study may involve the appointment of a legislative task force, composed of a specified number of legislators from the House of Representatives or the Senate, or both, as set forth in the enabling statute or resolution. In addition to following the progress of a particular study, the principal role of a task force is to determine whether to authorize the publication of any report resulting from the study and the introduction of any proposed legislation contained in the report. However, task force authorization does not necessarily reflect endorsement of all the findings and recommendations contained in a report.

Some studies involve an appointed advisory committee of professionals or interested parties from across the Commonwealth with expertise in a particular topic; others are managed exclusively by Commission staff with the informal involvement of representatives of those entities that can provide insight and information regarding the particular topic. When a study involves an advisory committee, the Commission seeks consensus among the members.<sup>2</sup> Although an advisory committee member may represent a particular department, agency, association, or group, such representation does not necessarily reflect the endorsement of the department, agency, association, or group of all the findings and recommendations contained in a study report.

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<sup>1</sup> Act of July 1, 1937 (P.L.2460, No.459); 46 P.S. §§ 65–69.

<sup>2</sup> Consensus does not necessarily reflect unanimity among the advisory committee members on each individual policy or legislative recommendation. At a minimum, it reflects the views of a substantial majority of the advisory committee, gained after lengthy review and discussion.

Over the years, nearly one thousand individuals from across the Commonwealth have served as members of the Commission's numerous advisory committees or have assisted the Commission with its studies. Members of advisory committees bring a wide range of knowledge and experience to deliberations involving a particular study. Individuals from countless backgrounds have contributed to the work of the Commission, such as attorneys, judges, professors and other educators, state and local officials, physicians and other health care professionals, business and community leaders, service providers, administrators and other professionals, law enforcement personnel, and concerned citizens. In addition, members of advisory committees donate their time to serve the public good; they are not compensated for their service as members. Consequently, the Commonwealth receives the financial benefit of such volunteerism, along with their shared expertise in developing statutory language and public policy recommendations to improve the law in Pennsylvania.

The Commission periodically reports its findings and recommendations, along with any proposed legislation, to the General Assembly. Certain studies have specific timelines for the publication of a report, as in the case of a discrete or timely topic; other studies, given their complex or considerable nature, are ongoing and involve the publication of periodic reports. Completion of a study, or a particular aspect of an ongoing study, generally results in the publication of a report setting forth background material, policy recommendations, and proposed legislation. However, the release of a report by the Commission does not necessarily reflect the endorsement by the members of the Executive Committee, or the Chair or Vice-Chair of the Commission, of all the findings, recommendations, or conclusions contained in the report. A report containing proposed legislation may also contain official comments, which may be used to construe or apply its provisions.<sup>3</sup>

Since its inception, the Commission has published almost 400 reports on a sweeping range of topics, including administrative law and procedure; agriculture; athletics and sports; banks and banking; commerce and trade; the commercial code; crimes and offenses; decedents, estates, and fiduciaries; detectives and private police; domestic relations; education; elections; eminent domain; environmental resources; escheats; fish; forests, waters, and state parks; game; health and safety; historical sites and museums; insolvency and assignments; insurance; the judiciary and judicial procedure; labor; law and justice; the legislature; liquor; mechanics' liens; mental health; military affairs; mines and mining; municipalities; prisons and parole; procurement; state-licensed professions and occupations; public utilities; public welfare; real and personal property; state government; taxation and fiscal affairs; transportation; vehicles; and workers' compensation.

Following the completion of a report, subsequent action on the part of the Commission may be required, and, as necessary, the Commission will draft legislation and statutory amendments, update research, track legislation through the legislative process, attend hearings, and answer questions from legislators, legislative staff, interest groups, and constituents.

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<sup>3</sup> 1 Pa.C.S. § 1939.



*General Assembly of the Commonwealth of Pennsylvania*

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To the Members of the General Assembly of Pennsylvania:

We are pleased to release the report, *Police Powers to Make Arrests, Carry Firearms, and Other Enforcement Authorizations in Pennsylvania*, as directed by House Resolution 620 of 2019. This unique report presents a comprehensive review of police powers, and provides the statutory history of each type of officer's legal authority to perform his or her duties and the qualifications and training required of officers. Particular attention is paid to each type of officer's legal authorization to carry firearms.

Commission staff performed an exhaustive search to ensure that all manner of peace officers are discussed, from state police to humane officers to cemetery watchmen. Employment data are included insofar as available. The report concludes with recommendations, including proposed codifications of existing statutes, for the General Assembly's consideration.

The report is available on our website: <http://jsg.legis.state.pa.us>.

Respectfully submitted,

Glenn J. Pasewicz  
Executive Director



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# INTRODUCTION

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## *Scope and Objectives*

House Resolution 620, Printer's No. 2948 of 2019 (HR 620), adopted December 17, 2019, directed the Joint State Government Commission (the Commission) to "conduct a study regarding identifying and evaluating all categories of individuals in this Commonwealth authorized to exercise arrest or other police powers." For each category identified, HR 620 directed the Commission to determine the following:

- The legal authority, including statutory, regulatory or common law, authorizing the exercise of arrest or other police powers;
- The appointing authority, if any;
- The qualifications for hiring or appointment, as appropriate;
- The in-service training requirements;
- The scope of jurisdiction and arrest or other police powers authorized;
- Whether the carrying and use of firearms or other deadly force is authorized; and
- The qualifications and training required relating to the carrying and use of firearms or other deadly force.

HR 620 also directs that "to the extent possible..." the Commission determine the "number of individuals serving within each category during the last five years for which data is available..." Finally, the resolution directs the Commission to "evaluate and make recommendations regarding whether any category identified has become obsolete or may be consolidated with one or more other categories to achieve efficiencies and enhance public safety."

## *Methodology*

To achieve HR 620's directives, the Commission staff reviewed Pennsylvania statutory law, case law, and regulations, along with academic journals, articles, agency publications and reports, and state government websites. To collect employment and service data for each of the categories within the scope of the resolution, Commission staff consulted the governing agencies/departments themselves or any recent agency/department reports covering employment figures. In addition, Commission staff consulted with agency resources such as Pennsylvania's Municipal Police Officers' Education and Training Commission (MPOETC). MPOETC, which is administered through the Pennsylvania State Police, is tasked with establishing the training, educating, and certification of different groups of law enforcement officials throughout the Commonwealth. Along with MPOETC's involvement in the training of numerous different types of law enforcement officers in Pennsylvania, MPOETC has collected data for those individual officers and agents it has certified and trained. MPOETC itself is discussed in more detail later in this report.

Based on information obtained through a review of the forgoing resources, Commission staff generated an appropriately tailored list of all the agents, officers, and individuals who both have authority to exercise arrests and other police powers throughout the Commonwealth. To help explain its rationale behind the categories chosen for discussion in the report, Commission staff took efforts to define and expand on the phrases "arrest authority" and "other police powers." In addition, this report discusses the background; legal authority; appointing authority (where applicable); qualifications; in-service training requirements; duties, scope of authority, and jurisdiction; legal authority to carry firearms while on duty; and to the extent data existed and was available, current and previous year employment numbers for each within said list. It should be noted, however, that some of the employment data totals collected by the Commission for 2020 are generally based on the agencies'/departments' most recent figures or yearly averages and may not reflect the continuing fluctuation of officers or agents entering retirement or simply leaving their positions.

The report also discusses and applies a set of analytical factors to support recommendations for the possible repeal of certain obsolete categories still embedded in some of Pennsylvania's older statutes. Further it proposes a comprehensive consolidation of many of those law enforcement categories and their respective free-standing statutes into a more organized addition to Titles 22 (Detectives and Private Police) and 44 (Law and Justice) of the Pennsylvania Consolidated Statutes.

## *Summary of Recommendations*

The following is intended to serve as a summary of the report's recommendations regarding the repeal and consolidation of obsolete law enforcement categories within Pennsylvania law. To coincide with its recommendations, Commission staff has prepared proposed legislation amending Titles 22 (Detectives and Private Police) and 44 (Law and Justice) of the Pennsylvania Consolidated Statutes attached to this report. These amendments codify provisions relating to the authority of state, local, and private law enforcement officers while also making editorial changes, updates, and related repeals.

**RECOMMENDATION #1:** *Cemetery Watchmen, Night Watchmen, and Agricultural or Horticultural Exhibit Police – repeal free-standing statutes and incorporate these categories within the scope of 22 Pa. C.S. § 501's authorization for the employment of private police by nonprofit corporations maintaining buildings and grounds open to the public*

Commission staff determined that cemetery watchmen, agricultural or horticultural exhibit police, and night watchmen are potentially obsolete categories currently possessing similar police powers. Consequently, it is recommended in this report that their free-standing statutes be repealed from Pennsylvania law and at the very least, their positions be incorporated within the scope of 22 Pa.C.S. § 501's authorization for the employment of private police by nonprofit corporations maintaining buildings and grounds open to the public. In the report, Commission staff proposes legislation illustrating this recommended repeal of the free-standing statutes and the incorporation of their categories in 22 Pa. C.S. § 501.

**RECOMMENDATION #2:** *Amend Title 22 of the Pennsylvania Consolidated Statutes by adding the Lethal Weapons Training Act under new Subchapters A and B immediately following Chapter 1*

It is recommended that since the Lethal Weapons Training Act (LWTA) plays a critical role in the governing of privately employed detectives, investigators, security, guards, patrolmen, and other privately employed agents, new legislation could be enacted to relocate the LWTA under newly created subchapters within Title 22. Commission staff believes that Title 22 is a logical location for the LWTA because it is also the location of Pennsylvania's provisions governing private detectives, investigators, security, guards, and patrolmen. Consolidating the LWTA into Title 22 helps to streamline state law requirements for these privately employed agents under one section of the law. The report's proposed legislative amendment also modernizes some outdated provisions within the LWTA.

**RECOMMENDATION #3:** *Consolidate certain Transportation-Related Law Enforcement categories statutorily under one Chapter*

Commission staff proposes legislation consolidating the Commonwealth's various transportation-related law enforcement categories, which include: transit police, railroad and street railway police, port authority police, and airport police. The objectives of this proposed legislation are to consolidate all police serving public transportation authorities under one chapter and to modernize the language and update the statutory cross-references within the provisions. Consolidating these law enforcement categories would streamline all police serving public transportation authorities under one unified chapter, thus improving the statutory organization of these categories, while likely making future amendments more seamless.

**RECOMMENDATION #4:** *Relocate Pennsylvania State Police provisions from the Administrative Code of 1929 to Title 44 of the Pennsylvania Consolidated Statutes*

It is recommended that the General Assembly consider relocating the provisions of the Pennsylvania State Police (PSP) to improve the overall organization of statutes governing state law enforcement. This recommendation is illustrated through proposed legislation that specifically relocates the statutory provisions of the PSP from the Administrative Code of 1929 to a newly-created Subchapter A of Chapter 21 in Title 44 of the Pennsylvania Consolidated Statutes. The proposed legislation updates the language used in the Administrative Code of 1929 as it pertains to PSP and repeals any obsolete provisions contained therein.

**RECOMMENDATION #5:** *Consolidate the provisions for Capitol Police and Commonwealth Police, Campus Police, and State Institutional Police into one Chapter under Title 44*

Commission staff proposes legislation consolidating provisions for Capitol Police and Commonwealth Police, campus police, and state institutional police into one chapter under Title 44. This make sense because these three categories have common powers and duties. For instance, Capitol Police and campus police both have the authority to enforce good order on the state-owned grounds and buildings for which they each have jurisdiction. They each have a duty to prevent crime within their jurisdictions and can each investigate criminal acts, apprehend and arrest criminal offenders. State institutional police also have similar police powers on the state-owned grounds and buildings for which they have jurisdiction over.

In addition, this proposed legislation also consolidates the provisions for campus police for both state-owned Pennsylvania State System of Higher Education (PASSHE) universities and state-related and state-aided colleges and universities. These distinctive set of educational institutions found their authorities under separate statutes, though their powers and scope of authority were similar.

In addition, this proposed legislative amendment updates language within the existing provisions. For example, the amendment updates the list of state-aided colleges and universities to match the current list compiled by the Pennsylvania Department of Education's database of educational institutions and section 9 of the Pennsylvania Fair Educational Opportunities Act. Currently, the act's list had universities and colleges listed that no longer exist.

**RECOMMENDATION #6:** *Repeal free-standing statutes pertaining to sheriffs and deputy sheriffs in First Class Counties while consolidating them in Title 44 to parallel the County Code provisions*

Commission staff recommends repealing the free-standing statutes pertaining to sheriffs and deputy sheriffs in first class counties while consolidating them in Title 44 to parallel the County Code provisions.

The General County Law of 1929, and its successor statutes, the County Code of 1955 and the Second Class County Code of 1953, include provisions regarding the powers and duties of sheriffs and deputy sheriffs in second through eighth class counties. The assorted statutes governing the role of sheriffs in first class counties have not been so organized previously. As such, Commission staff is proposing a legislative amendment that creates a subchapter designed to parallel the provisions of the County and Second Class County Codes regarding sheriffs and deputy sheriffs and consolidates those statutes. It also repeals those free-standing statutes applicable to sheriffs in first class counties. Like the reports previous recommendations, this amendment is intended to streamline the provisions pertaining to sheriffs and deputy sheriffs in a more organized fashion than the existence of separate free-standing statutes.

This proposed amendment also updates language within existing sheriff and deputy sheriff provisions. For example, 16 P.S. § 7518 limits the salary of a real estate deputy to \$7,500 per year. Likewise, 16 P.S. § 7521 limits the salary of the chief deputy to \$7,500 per year.



## **THE “AUTHORITY TO EXERCISE ARREST” AND “OTHER POLICE POWERS”**

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The role of professional, effective, and well-trained law enforcement officers is vital to public safety in today’s world. In Pennsylvania, State Troopers, municipal police officers, sheriffs, the Office of Attorney General, and other traditional law enforcement officials and agencies, were created to serve and protect the public and preserve the peace within their jurisdictions.

However, as HR 620 correctly notes, throughout the Commonwealth’s history, traditional law enforcement agencies, like those named above, have been supplemented by a broad range of other officials authorized to exercise arrest and other police powers. To construct a complete accounting of all these officials within Pennsylvania as HR 620 directs, it is necessary to determine whom exactly the resolution is requesting information about when it expressly references those with “authority to exercise arrest” and “other police powers”.

### *Police Powers*

It has been said that probably the most important function of government is the exercise of the police power for the purpose of preserving the public health, safety, and welfare.<sup>4</sup> The term “police powers” is both a broad and sweeping term interpreted to include the inherent power of government to enact and enforce laws for the promotion of the general welfare, the inherent power by which the state regulates private rights in the public interest, and a power of government that extends to all great public needs.<sup>5</sup>

While the Commonwealth retains jurisdictional police powers over certain areas of law (waterways, wildlife, state highways, etc.), it delegates limited police power to local government at the county and municipal levels. Such delegated police powers are often subject to a local government’s enabling legislation or home rule charter. For purposes of practical application, the following are some common examples of the use of police powers usually found at the local or county level:

- Protection of property
- Use of property in general (zoning)
- Building regulations
- Regulation of billboards, signs, and other structures or devices for advertising purposes
- Prevention of and protection against fire
- Keeping and use of animals

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<sup>4</sup> *Gambone v. Commonwealth*, 101 A.2d 634, 636 (Pa. 1954); *Lambert v. California*, 355 U.S. 225, 228 (1957).

<sup>5</sup> Local Government Commission, “Pennsylvania Legislator’s Municipal Deskbook,” 5<sup>th</sup> Edition, (2017) at p. 75.

- Prohibition of nuisances in general
- Restriction of smoke and offensive or noxious odors
- Removal and disposition of garbage, refuse, and filth
- Removal of dead animals
- Regulation of occupations and employment<sup>6</sup>

The individuals who serve directly to enforce and execute the government's police powers both at the state and local level, in many cases have the authority to engage in police activity such as issuing citations, executing warrants, conducting investigations, carrying firearms, and in some very specific cases, exercising authority to arrest.

### *Authority to Arrest*

According to the Supreme Court of Pennsylvania, the exercise of an arrest occurs when there is "any act that indicates an intention to take [a] person into custody and subjects him to the actual control and will of the person making the arrest."<sup>7</sup> Contrary to common belief, there are many individuals with varying taxonomy who possess the legal right to perform arrests within the Commonwealth. The most obvious individual that comes to mind is a police officer. The authority to arrest is expressly mentioned in the Pennsylvania Rules of Criminal Procedure's definition of the term "police officer." Specifically, the rules define "police officer" as "any person who is by law given the power to arrest when acting within the scope of the person's employment." It is worth noting that the rules distinguish the term "police officer" from "law enforcement officer," which is defined under the rules as "any person who is by law given the power to enforce the law when acting within the scope of that person's employment."<sup>8</sup>

However, police officers are not the only individuals endowed with arrest authority and other powers necessary to enforce both state and local laws. Many other individuals within the Commonwealth, some of which may fall within the definition of "law enforcement officer" under the Rules of Criminal Procedure, have the legal authority to perform arrests to varying degrees depending largely on the attendant circumstances. For instance, sheriffs retain authority to arrest an individual or group of individuals for breaches of the peace and felonies committed in their presence. A sheriff's authority to arrest is much more limited than that of a police officer.<sup>9</sup>

Constables and their deputies are granted limited authority to perform warrantless arrests for felonies and breaches of the peace. Like police officers and sheriffs, constables must complete the same general type of training required of police officers before acting to enforce the law.<sup>10</sup>

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<sup>6</sup> *Ibid.*

<sup>7</sup> *Commonwealth v. Lovette*, 450 A.2d 975, 978 (Pa. 1982).

<sup>8</sup> Pa. R. Crim. P. Rule 103.

<sup>9</sup> *Commonwealth v. Marconi*, 64 A.3d 1036 (Pa. 2013).

<sup>10</sup> *Commonwealth v. Taylor*, 677 A.2d 846, 853 (Pa. 1996).

Waterways Conservation Officers and Game Wardens and their deputies possess their own police powers to enforce state laws covering fish, game, and water courses. Their authority ranges from exercising discretion to issue written or verbal warnings in lieu of making arrests or issuing citations, to executing search warrants, carrying firearms, stopping vehicles or boats while initiating searches and inspections, and serving subpoenas issued for examination, investigation, and trial of all offenses within their statutory scope. These officers also have the authority to arrest individuals in certain circumstances.<sup>11</sup>

While the Office of the Attorney General does not possess the general arresting authority of police officers, its criminal law agents have the authority to apply for warrants and arrest only in those instances where an investigation or prosecution is undertaken pursuant to the Commonwealth Attorney's Act.<sup>12</sup>

The Pennsylvania Supreme Court has held that a private citizen possesses the privilege to arrest without a warrant where a felony has actually been committed and said citizen has reasonable grounds to suspect that the person he or she arrests committed the felony.<sup>13</sup> In 1983, the Pennsylvania Superior Court held that private citizens may also perform an arrest without a warrant on anyone who was committing a breach of the peace within the citizen's presence and personally observed by said citizen.<sup>14</sup> This holding has never been tested before Pennsylvania's Supreme Court. Nevertheless, the arrest authority of private citizens is outside the intended scope of HR 620 and consequently, it will not be discussed in further detail within this report.

This report will constrain its attention to analyzing the following individuals and categories:

- Pennsylvania State Police Troopers
- Pennsylvania Office of Attorney General Criminal Law Agents
- Pennsylvania Office of State Inspector General Special Investigators
- Capitol Police and Commonwealth Property Police
- State Institutional Police
- Corrections Officers
- Parole Agents and Probation Officers
- DCNR Rangers
- Wildlife Conservation Officers (Game Wardens)
- Waterways Conservation Officers
- Forest Fire Wardens

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<sup>11</sup> *Commonwealth v. Himes*, 750 A.2d 304 (Pa. 2000), vacating 715 A.2d 1208 (Pa. Super. 1998) and remanding for consideration in light of *Commonwealth, Dept. of Transp., Bureau of Driver Licensing v. Kline*, 741 A.2d 1281 (Pa. 1999); 30 Pa.C.S. § 901(a).

<sup>12</sup> Act of October 15, 1980 (P.L. 950, No. 164), §§ 205, 206; 71 P.S. §§ 732-205, 206; *Commonwealth v. Galloway*, 574 A.2d 1045, 1048 (Pa. 1990).

<sup>13</sup> *Commonwealth ex rel. Duncan v. Rundle*, 227 A.2d 659, 661 (Pa. 1967) citing *Commonwealth ex rel. Garrison v. Burke*, 106 A.2d 587 (Pa. 1954); *Commonwealth ex rel. Spencer v. Ashe*, 71 A.2d 799, Cert. denied 339 U.S. 990.

<sup>14</sup> *Commonwealth v. Corley*, 462 A.2d 1374, 1379 (Pa. Super. 1983), order aff'd, 491 A.2d 829 (Pa. 1985).

- University Campus Police – Pennsylvania State System of Higher Education
- University Campus Police – State-Related and State-Aided Colleges and Universities
- University Campus Police - Private Colleges and Universities (non-profit)
- School Police Officers
- Transit Police
- Railroad and Street Railway Police
- Pennsylvania Motor Carrier Enforcement
- Pennsylvania Public Utilities Commission (Motor Carrier) Inspectors
- Delaware River Port Authority Police Officers
- Delaware River Joint Toll Bridge Commission Police
- Port Authority of Allegheny County Police Officers
- Airport Police
- Liquor Control Enforcement Officers
- Revenue Enforcement Agents
- Constables
- Sheriffs & Sheriff's Deputies
- Real Estate Deputies
- Municipal Police
- Park Police
- Housing Authority Police
- Auxiliary Police
- Special Fire Police
- Humane Society Police Officers
- Cemetery Watchmen
- Agricultural or Horticultural Exhibit Police
- Night Watchmen
- Private Detectives, Investigators, Watchmen, Security Guards, and Patrolmen

In this report, all of the above listed officials are grouped into one of the following eight jurisdictional categories:

- General Statewide Law Enforcement Jurisdiction
- Correctional Institutions
- Conservation
- Educational Institutions
- Transportation Enforcement
- Statewide Enforcement for Specified Activities
- Local Jurisdictions
- Private Police and Security

There were a few agencies and officers that do not possess any significant arrest authority or other police powers that fit within the scope of HR 620. Some examples of these agencies and officers include Pennsylvania State Senate Security officers and Pennsylvania State House of Representatives Security detail.

The Pennsylvania State Senate maintains an in-house security department that serves all the Senate spaces in the Capitol as well as district offices if their services are requested there. While the department, operating under the supervision of the Chief Sergeant-at-Arms, provides 24-hour security detail while also managing more administrative aspects of security, (like parking and access badges), and provides the security training for members and their staff, no security staff possesses any arresting authority or other police powers.<sup>15</sup>

House of Representatives Security personnel, or “Legislative Security Officers”, work to preserve “order and decorum” in the chambers. They can be summoned by the Speaker or Presiding Officer to do so. These officers also ensure that spectators and other staff in the adjoining rooms are following the House Rules.<sup>16</sup> Officers may be asked to remove a member that has been found in contempt by refusing to vote.<sup>17</sup> The Sergeant-at-Arms, the leader of Legislative Security Officers, is charged with issuing subpoenas from committee investigations.<sup>18</sup> However, like Senate Security, Legislative Security Officers do not have any arresting authority or other police powers and therefore, both will be excluded from further review in this report.

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<sup>15</sup> Office of the Secretary, Pennsylvania State Senate, “Senate Security,” [https://www.secretary.pasen.gov/Departments.cfm?department=SENATE\\_SECURITY](https://www.secretary.pasen.gov/Departments.cfm?department=SENATE_SECURITY), last accessed September 9, 2020.

<sup>16</sup> Pa. H.R. Gen. Op. R. 3 (2019-20), available at <https://www.house.state.pa.us/rules.cfm>.

<sup>17</sup> Pa. H.R. Gen. Op. R. 16 (2019-20), available at <https://www.house.state.pa.us/rules.cfm>.

<sup>18</sup> Pa. H.R. Gen. Op. R. 51 (2019-20), available at <https://www.house.state.pa.us/rules.cfm>.



# GENERAL STATEWIDE LAW ENFORCEMENT JURISDICTION

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## *Pennsylvania State Police*

### *Background*

The Pennsylvania State Police (PSP) (at the time known as simply the “State Police”) was created in 1905 in response to growing labor unrest that could no longer be mitigated by local sheriffs and constables. This growing unrest was the by-product of Pennsylvania’s considerable shift from a largely agricultural state to a largely industrial center – a shift where “violence became common in the new communities that sprang up around the coal fields, iron mills, textile factories, and railroad yards.”<sup>19</sup>

The PSP was established as an executive department of state government despite sharp opposition from organized labor. The PSP was the first uniformed police organization of its kind in the United States and was used as a model for other states to follow in their implementation of state police agencies. Though in the earliest years of the PSP only single men were allowed to become troopers, the duties and diversity of the department expanded over the following decades. State law initially also limited the PSP force to only 228 men. With the PSP’s jurisdiction spanning the Commonwealth’s 45,000 square miles, such limitation proved to be infeasible.<sup>20</sup>

Early on, the PSP was divided into four “Troops” throughout the Commonwealth: Troop A, Greensburg; Troop B, Wilkes-Barre (later moved to Wyoming); Troop C, Reading; and Troop D, Punxsutawney. The State Police was authorized to establish a fifth Troop on July 1, 1919, designated Troop E and established in Lancaster. In February 1920, a State Police training school was established in Newville, Cumberland County, however, the school was shuttered a few years later in 1923. That same year, the State Highway Patrol was established in 1923 within the Department of Highways for the purpose of enforcing the vehicle laws of Pennsylvania’s growing network of highways. Later that year, PSP installed the nation’s first statewide police radio telegraph system, which remained operational until 1947.<sup>21</sup>

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<sup>19</sup> PA Trooper.com, “Historical Facts and Highlights Pennsylvania State Police,” <http://www.patrooper.com/history.html>, last accessed April 17, 2020.

<sup>20</sup> *Ibid.*

<sup>21</sup> *Ibid.*

In 1937, the Highway Patrol merged with the State Police and operated under the new name of the “Pennsylvania Motor Police.” The name changed to its present day title of the Pennsylvania State Police in 1943 and became responsible for enforcing the Uniform Firearms Act that same year.<sup>22</sup>

In 1963, married men became eligible to apply, and by 1971, the first female applicant was accepted as a Cadet to the academy. The very next year, the academy class containing the first female Troopers graduated on July 7, 1972, as shown in the picture below.<sup>23</sup>



Source: PA Trooper.com, “Historical Facts and Highlights Pennsylvania State Police,” <http://www.patrooper.com/history.html>, last accessed April 17, 2020.

Over the years, the PSP expanded in numbers and resources. By 1993, it had become the largest accredited<sup>24</sup> police agency in the world.<sup>25</sup> According to a 2014 report published by the Pennsylvania Legislative Budget and Finance Committee, PSP provided full-time police services to 1,279 municipalities and part-time services to 420 municipalities with a total population served of 3.3 million, covering 82 percent of the Commonwealth’s total land area.<sup>26</sup>

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<sup>22</sup> *Ibid*; Act of June 29, 1937 (P.L. 2436, No. 455), § 2; 71 P.S. § 253.

<sup>23</sup> *Ibid*.

<sup>24</sup> *Ibid*. Accreditation for Law Enforcement Agencies requires compliance with 733 professional police standards.

<sup>25</sup> *Ibid*.

<sup>26</sup> Legislative Budget and Finance Committee, “Police Consolidation in Pennsylvania,” (Sept. 2014), <http://lbfc.legis.state.pa.us/resources/documents/reports/497.pdf>, last accessed June 1, 2020.

According to the Pennsylvania State Police *Strategic Plan 2019 – 2022*, the current legislated complement cap for the PSP is 4,719 sworn members, with the authorized funded complement of sworn members being 4,362.<sup>27</sup> It should be noted that the Administrative Code of 1929 (Administrative Code) has the complement cap for the number of officers and enlisted members listed at 4,310 persons. However, the Code further provides that state police troopers and enlisted members, “assigned to duty with the Pennsylvania Turnpike Commission, Delaware River Joint Toll Bridge Commission, Gaming Enforcement and Liquor Control Enforcement shall not be counted” in determining the total number of troopers and enlisted members in the PSP.<sup>28</sup> This may explain the cap discrepancy discussed above.

Based on information provided directly by the PSP, there are currently 4,633 enlisted PSP troopers serving across the Commonwealth. PSP also employs over 1,850 civilians to serve in a variety of different roles.<sup>29</sup> PSP’s current statewide headquarters is situated in Harrisburg and its head executive officer is its Commissioner who maintains his or her authority pursuant to state statute.<sup>30</sup> There are currently 14 separate bureaus within the PSP organizational structure. These bureaus include the following:

- Bureau of Human Resources
- Bureau of Training and Education
- Bureau of Integrity and Professional Standards
- Discipline Office
- Bureau of Patrol
- Bureau of Criminal Investigation
- Bureau of Liquor and Control Enforcement
- Bureau of Emergency and Special Operations
- Bureau of Information Technology
- Bureau of Forensic Services
- Bureau of Staff Services
- Bureau of Records and Identification
- Bureau of Research and Development
- Bureau of Communications and Information Services<sup>31</sup>

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<sup>27</sup> Pennsylvania State Police, Bureau of Research and Development, “Strategic Plan 2019 – 2022,” <https://www.psp.pa.gov/About-PSP/Documents/Strategic%20Plan.pdf>, last accessed on November 9, 2020.

<sup>28</sup> Act of April 9, 1929 (P.L. 177, No. 175), art. VII, § 65(b); 71 P.S. § 65(b). The Pennsylvania State Police complement cap was amended to increase the number of enlisted troopers from 3,940 to 4,310 by the Act of July 2, 2013 (P.L. 249, No. 43). It is worth noting that before this amendment, troopers assigned to the Turnpike did not count under the statutory cap. The 2013 amendment added troopers assigned to the Delaware River Joint Toll Bridge Commission and the Gaming Enforcement and Liquor Control Enforcement as additional troopers who do not count toward the cap.

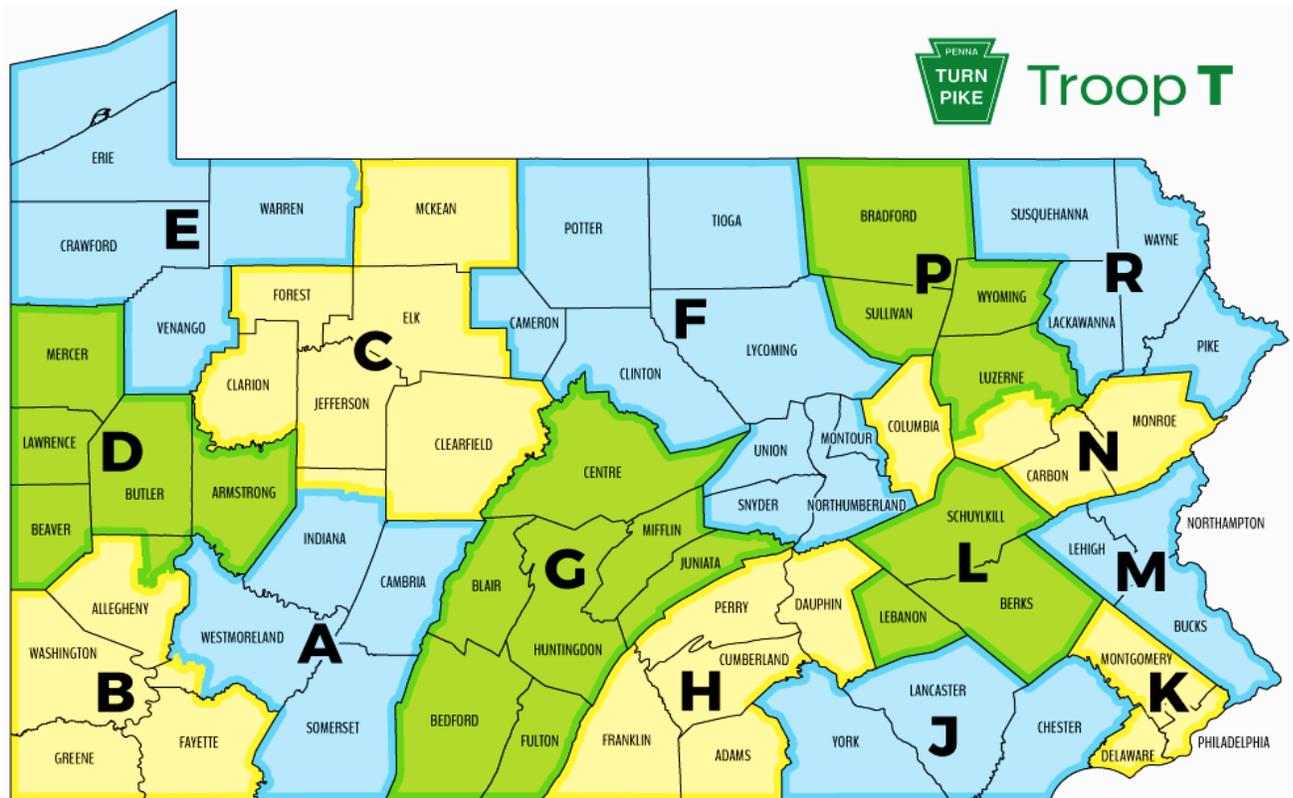
<sup>29</sup> Pennsylvania State Police, “About PSP,” <https://www.psp.pa.gov/About-PSP/Pages/default.aspx>, last accessed on May 12, 2020.

<sup>30</sup> *Supra*, n. 27; 71 P.S. § 251.

<sup>31</sup> Pennsylvania State Police, “About PSP,” <https://www.psp.pa.gov/About-PSP/Pages/default.aspx>, last accessed on September 25, 2020.

In addition, there are 15 different Troops stationed throughout Pennsylvania. See MAP 1 below.

**MAP 1:**  
**PSP Troops in Pennsylvania, 2020**



Source: Pennsylvania State Police, “PSP Troop Directory,”  
<https://www.psp.pa.gov/troop%20directory/Pages/default.aspx>, last accessed on September 25, 2020.

PSP maintains a “Call of Honor” which each member has been required to memorize since 1929. The Call of Honor is as follows:

*I am a Pennsylvania State Trooper, a soldier of the law. To me is entrusted the honor of the force.*

*I must serve honestly, faithfully, and if need be, lay down my life as others have done before me, rather than swerve from the path of duty.*

*It is my duty to obey the law and to enforce it without any consideration of class, color, creed or condition.*

*It is also my duty to be of service to anyone who may be in danger or distress, and at all times so conduct myself that the honor of the force may be upheld.<sup>32</sup>*

In addition to its Call of Honor, the PSP also focuses its operations on a set of core values it seeks to uphold, which are as follows:

**HONOR:**

We are committed to upholding the Honor of the Force by providing honest and faithful police service to all who may be in danger or distress.

**SERVICE:**

We recognize that customer service is our highest priority. We are committed to providing caring, competent, and professional police service.

**INTEGRITY:**

We believe Integrity is character in action. We are morally and ethically aware, resolute, and above reproach at all times regardless of our duty status.

**RESPECT:**

We must respect ourselves, our peers, those we serve, and the sanctity of the law and the institution that is the Pennsylvania State Police.

**TRUST:**

We must solemnly value the trust that has been placed in us by those we are sworn to serve, and we are committed to holding ourselves

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<sup>32</sup> Pennsylvania State Police, “About PSP: Pennsylvania State Police Call of Honor”, <https://www.psp.pa.gov/About-PSP/Pages/Call-of-Honor.aspx>, last accessed on May 12, 2020.

to a higher standard of accountability to continually earn their respect each and every day.

**COURAGE:**

We recognize that “courage is not the absence of fear, but the mastery of it.” We stand firm in the face of danger, and will confront all threats to the safety and security of our communities with intelligence and vigor.

**DUTY:**

We do not swerve from the path of our obligations, nor do we depart from standards of professional conduct. We obey the law and enforce it without any consideration of class, color, creed, or condition.<sup>33</sup>

*Legal Authority*

The legal authority establishing the organizational structure and function of the PSP is firmly rooted within the Administrative Code of 1929 (Administrative Code). Specific authority of the PSP and the duties of its troopers are defined in sections 250, 252, 710, and 711 of the Code, all of which will be discussed in further detail below.<sup>34</sup>

*Duties, Scope of Authority, and Jurisdiction*

The PSP has jurisdiction in all political subdivisions in the Commonwealth. Criminal investigation and support services occupy approximately one-third of the total on-duty time of the PSP while the remaining time is devoted to traffic enforcement and other public safety services.<sup>35</sup> In general, the Administrative Code prescribes that the PSP has the power and duties which include, but are not limited to the following:

- Perform duties by law vested in and imposed upon the Department of State Police, the Pennsylvania State Police, the State Highway Patrol, and the Pennsylvania Motor Police.
- Assist the Governor in the administration and enforcement of the laws of the Commonwealth.
- Cooperate with counties and municipalities in the detection of crime, the apprehension of criminals, and the preservation of law and order throughout the State.

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<sup>33</sup> Pennsylvania State Police, “About PSP: Pennsylvania State Police Core Values”, <https://www.psp.pa.gov/About-PSP/Pages/Pennsylvania-State-Police-Core-Values.aspx>, last accessed on May 12, 2020.

<sup>34</sup> Act of April 9, 1929 (P.L. 177, No. 175), art. VII, § 250, 252, 710, 711; 71 P.S. § 250, 252, 710, 711.

<sup>35</sup> Pennsylvania State Police, “About PSP”, <https://www.psp.pa.gov/About-PSP/Pages/default.aspx>, last accessed on May 12, 2020.

- Aid in the enforcement of all laws relating to game, fish, forests, and waters.
- Collect and classify, and keep at all times available, complete information useful for the detection of crime and the identification and apprehension of criminals.
- Enforce the laws regulating the use of State highways and assist the Department of Transportation and the Department of Revenue in the collection of motor license fees, fees for titling vehicles and tractors, operators' license fees, the tax on cigarettes, and the tax on liquid fuels, and the issuance of certificates of title and motor and operators' licenses.
- Search without warrant any boat, conveyance, vehicle or receptacle, or any place of business when there is good reason to believe any law has been violated.
- Collect information relating to crimes and incidents related to the race, color, religion or national origin of individuals or groups.<sup>36</sup>

More specific duties enumerated in the Administrative Code include the authority to make arrests, without warrant, for all violations of the law, "including laws regulating the use of the highways, which a trooper has witnessed, and to serve and execute warrants issued by proper local authorities."<sup>37</sup> Moreover PSP troopers have "all the powers and prerogatives conferred by law upon members of the police force of cities of the first class, and upon constables of the Commonwealth."<sup>38</sup> In their official capacity, PSP troopers also have the authority to exercise the following powers:

- Act as game protectors, and as forest, fish, or fire wardens.
- Seize all guns, boats, decoys, traps, dogs, game, fish, shooting paraphernalia, or hunting or fishing appliances or devices, used, taken, or held in possession, contrary to State law.
- Seize and take possession of all birds, animals, or fish, which have been taken, caught or killed, or held in possession contrary to State law.
- Serve subpoenas issued before any examination, investigation, or trial had pursuant to any law as aforesaid.
- Purchase game or fish for the purpose of securing evidence.<sup>39</sup>

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<sup>36</sup> Act of April 9, 1929 (P.L. 177, No. 175), art. VII, § 250, 252, 710, and 711; 71 P.S. §§ 250, 252, 710, and 711.

<sup>37</sup> *Ibid.* § 712; 71 P.S. § 252(a),(b)(1)-(5).

<sup>38</sup> *Ibid.*

<sup>39</sup> *Ibid.*

## *Qualifications and Required Training*

Applicants interested in becoming PSP troopers must be at least 20 years of age when completing their application and 21 by the date of their appointment as a State Police Cadet. They must also be Pennsylvania residents and have a valid Pennsylvania driver's license. Applicants must also have 60 credit hours or an associate degree completed, unless they have four years of active military duty and an honorable discharge, or four years of relevant experience in law enforcement as determined by the PSP. Applicants are automatically disqualified for misrepresenting or falsifying information on their application, substance use beyond what the PSP has deemed experimental, and a criminal record that would damage the reputation of the PSP. After being accepted, applicants must pass minimum requirements of a physical examination including dental and vision examinations.<sup>40</sup>

To become a PSP cadet, applicants must move through multiple levels of testing. They must first take and pass a written and oral examination. Then they move on to a polygraph examination, and then a background check. The test of physical readiness includes a vertical jump of fourteen inches, a 1 Repetition Maximum (RM) bench press, agility run in 23.5 seconds, a 77-second 300-meter run, thirteen push-ups, and a 1.5 mile run in seventeen minutes and 48 seconds. After passing the physical test, applicants undergo a psychological evaluation that includes a drug screening. After basic training, applicants take the same test with higher standards, including an eighteen inch vertical jump, 1RM bench press of 85 percent of their body weight, an agility run in 19.5 seconds, 300 meters in 65 seconds, 30 push-ups, and a 1.5 mile run in fourteen minutes and 50 seconds.<sup>41</sup>

Training at the PSP Academy lasts 28 weeks. Cadets live directly on the campus of the training facility and train weekdays from 5:30am to 10:45pm. Cadets take classes on police skills, pursuit driving, use of weapons, and CPR and first aid. After finishing training, cadets become Troopers and spend eighteen months in a probationary period with one troop. Troopers must stay with their first troop for two years from the date of their graduation from the academy and may be reassigned to a different troop after the expiration of the two years.<sup>42</sup>

PSP cadets must attend firearms training classroom and range sessions. Cadets start by being introduced to firearms safety for circumstances on and off-duty. In addition, PSP cadets learn about different kinds of ammunition and are provided with a basic knowledge necessary to identify ammo configurations. Cadets also learn about firearms ballistics, issued duty gear, principles of marksmanship, and other topics related to firearms. After classroom instruction, cadets attend range training where they engage in numerous bullseye shooting sessions, combat shooting sessions, and learn shooting techniques during low light or dark conditions. During the low light or dark sessions, cadets learn about the effects of light and dark on the human eye, and eventually participate in pistol night fire qualifications. For these night qualifications, cadets will shoot 36 rounds and must shoot 75 percent or better. Cadets also participate in a 50-yard line

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<sup>40</sup> "Am I Qualified?" PA Trooper.com, accessed April 17, 2020, <http://www.patrooper.com/qualified-requirements.html>.

<sup>41</sup> "Cadet Selection Process," PA Trooper.com, accessed April 17, 2020, <http://www.patrooper.com/cadet-selection.html>.

<sup>42</sup> "What to Expect," PA Trooper.com, accessed April 20, 2020, <http://www.patrooper.com/what-to-expect.html>.

qualification shoot, where each cadet shoots 10 rounds and is required to shoot a 75 percent or better. Range training also includes, to name a few, patrol rifle training, traverse shooting and steel plates (generally involves shooting while moving), personal weapons qualifications (must shoot a 75 percent or better), a personal weapons written test and demo, a long gun combat course, chemical munitions and chemical agents, shotgun with gas mask and tear gas protection, department-issued hard body armor, and a three gun tactical combat course. All of the courses range from one to four hours in duration each.<sup>43</sup>

*Right to Carry Firearms*

PSP troopers retain the right to carry a firearm concealed without having to obtain a valid and lawfully issued license to carry as is required for regular civilians under the Pennsylvania Uniform Firearms Act. Such right is analogous to that possessed by constables, prison or jail wardens, or their deputies, municipal policemen, or other law enforcement officers.<sup>44</sup> As noted above, the Administrative Code also confers on PSP troopers “all the powers and prerogatives conferred by law upon members of the police force of cities of the first class, and upon constables of the Commonwealth.”<sup>45</sup> The reciprocal powers and prerogatives of those police forces of first class cities and constables includes the right to carry firearms.

*Number of Individuals Serving 2016 – 2020*

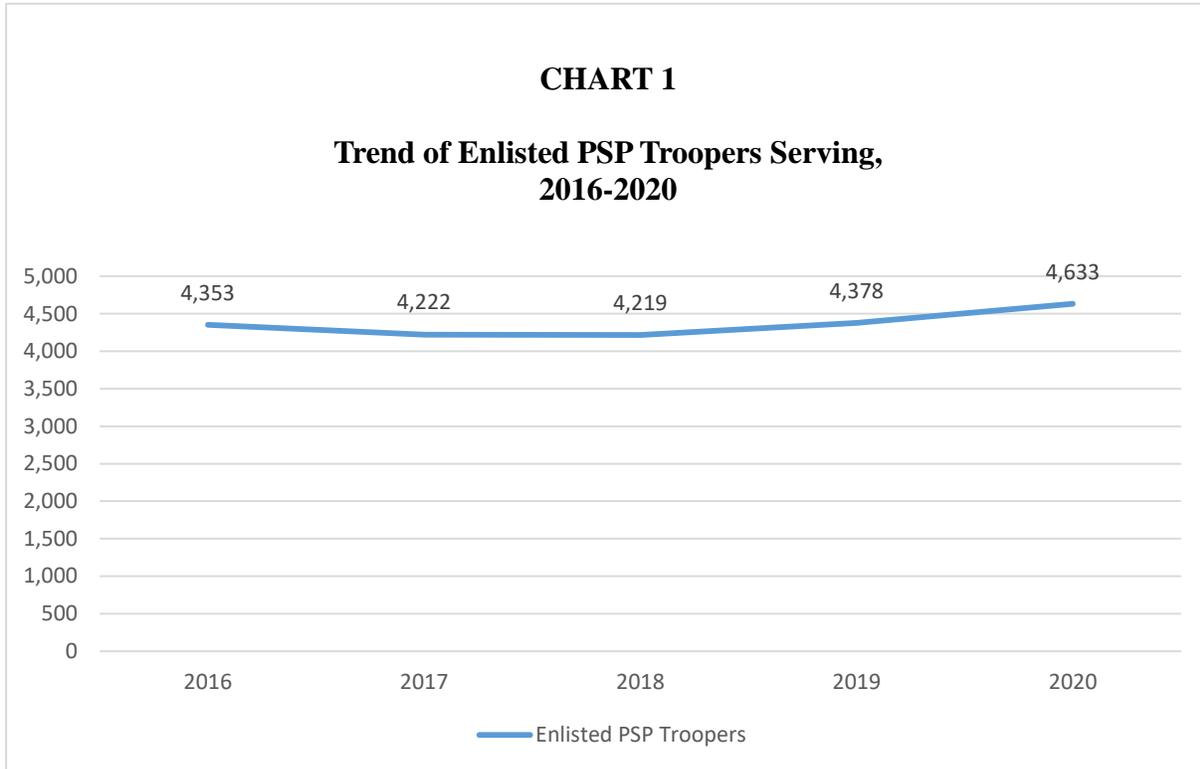
The following table and chart below provide the number and trend of individual PSP troopers serving within the Commonwealth the past five years. It should be noted that this information is updated to September 1, 2020 and may not reflect the most recent trooper retirements past this date.

<b>TABLE 1</b>					
<b>Number of Enlisted PSP Troopers Serving, 2016-2020</b>					
<b>Enlisted PSP Troopers</b>	<b>Year</b>				
	<b>2016</b>	<b>2017</b>	<b>2018</b>	<b>2019</b>	<b>2020</b>
Total	4,353	4,222	4,219	4,378	4,633
Source: Compiled by the Commission Staff based on data from Trooper Brent Miller, Director, Communications Office, Pennsylvania State Police.					

<sup>43</sup> “Pennsylvania State Police Cadet Firearms Training Classroom & Range Sessions, Titles and Content” provided by Sgt. Jason R. Troutman, Supervisor, Pennsylvania State Police, Academy Firearms Unit.

<sup>44</sup> 18 Pa.C.S. § 6106(a)(b).

<sup>45</sup> *Supra*, n. 36, §712; 71 P.S. § 252(a),(b)(1)-(5).



Source: Compiled by the Commission Staff based on data from the Trooper Brent Miller, Director, Communications Office, Pennsylvania State Police.

### *PA Office of Attorney General Criminal Law Agents*

#### *Background*

In Pennsylvania, the Attorney General is the Commonwealth’s chief law enforcement official. Moreover, the longstanding purpose of the Office of Attorney General (OAG) is to protect and serve Pennsylvania’s citizens and agencies. This broad purpose is echoed in its mission statement, which provides that the office is dedicated to protecting and serving Pennsylvania citizens by “ensuring fair and impartial administration of justice for all Pennsylvanians, advocating for fair and equitable treatment of all consumers, providing leadership in preventing and controlling crime committed against Pennsylvanians, and pursuing just punishment without fear or favor for those guilty of unlawful behavior.”<sup>46</sup> To honor its mission statement and achieve its stated objectives, the Attorney General has the authority to hire staff, which includes enforcement officers that have both arresting authority and other limited police powers.<sup>47</sup>

<sup>46</sup> Office of the Attorney General, “The Office,” <https://www.attorneygeneral.gov/the-office/>, last accessed on June 30, 2020.

<sup>47</sup> *Ibid.*

The official position of Attorney General in Pennsylvania can be traced back to 1643, specifically within a Swedish settlement along the Delaware River known as New Sweden. English Common Law had not yet arrived in this portion of America at the time, and with no centralized American government in existence, appointees for the position for Attorney General were selected by the King of Sweden.<sup>48</sup>

Over a century later, in 1776, the year the American colonies declared their independence from England, the Attorney General became a constitutional officer of the Commonwealth, with John Morris being the first to be appointed to the position under the Pennsylvania Constitution. However, in 1850 the office was stripped of much of its authority until legislators established new powers and duties for the office in 1915. Several years later in 1923, the Attorney General became the administrator for the Pennsylvania Department of Justice. At the primary election of 1978, Pennsylvania voters approved a Constitutional amendment that essentially transformed the Attorney General from an appointed position to an elected one. Elections for an Attorney General formally began with the general election of 1980.<sup>49</sup>

Today, the OAG is staffed by “several hundred prosecutors, attorneys, investigators, agents, and support staff in offices across the state, divided into four sections: the Criminal Law Division, the Public Protection Division, the Civil Division, and the Operations Division.”<sup>50</sup> Pertinent to this report are the criminal law agents serving under the Attorney General. According to the OAG, these agents “utilize the entire spectrum of investigative processes and procedures in the conduct of or in providing assistance with the conduct of criminal investigations ranging from routine to the most sensitive, complex, and difficult cases.”<sup>51</sup>

### *Legal Authority*

The legal authority for the OAG and its agents can be found within the Commonwealth Attorneys Act of 1980 (CAA)<sup>52</sup>, which defines the duties and powers of the Attorney General, along with section 8953.2, of the Judicial Code.<sup>53</sup>

### *Appointing Authority*

The CAA provides the Attorney General with the authority to appoint a first deputy attorney general, a director of the Bureau of Consumer Protection, and such other deputies, officers and employees who may, at any time, exercise such powers and perform such duties as may be prescribed by the Attorney General.<sup>54</sup> Officers and employees include investigators and agents. Agents often appointed by the Attorney General to carry out law enforcement duties are generally

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<sup>48</sup> Office of the Attorney General, “History of the Office,” <https://www.attorneygeneral.gov/the-office/>, last accessed on June 30, 2020.

<sup>49</sup> *Ibid.*

<sup>50</sup> *Supra*, n. 46.

<sup>51</sup> Office of Attorney General Job Posting Publication – Special Agent Tainee/I/II, <https://www.attorneygeneral.gov/wp-content/uploads/2020/02/Special-Agent-Financial-Crimes-Statewide-2.20.pdf>, last accessed on June 30, 2020.

<sup>52</sup> Act of October 15, 1980 (P.L. 950, No. 164), § 201; 71 P.S. § 732-201(a).

<sup>53</sup> 42 Pa.C.S. § 8953.2

<sup>54</sup> *Supra*, n. 52; 71 P.S. § 732-201(c).

special agents, narcotics agents, asset forfeiture agents, Medicaid fraud agents, and senior investigators in the hazardous waste prosecutions unit.

### *Duties, Scope of Authority, and Jurisdiction*

Criminal law agents of the OAG have the authority to make arrests and enforce the law under the authority of the Judicial Code. In addition, agents can enforce laws of the Commonwealth and exercise the powers of municipal police officers in specific instances. For example, if a federal, state, or local law enforcement officer asks them for assistance or if there is probable cause that they need assistance, agents are empowered to provide it. Moreover, while on official business, if an agent identifies either a felony, misdemeanor, or breach of the peace, they are authorized to intercede after identifying themselves as police officers.<sup>55</sup>

### *Qualifications and Required Training*

There are various titles of Attorney General criminal law agents in different fields of expertise. Narcotics agents and special agents will be specifically discussed in this report. To become a Special Agent Trainee, one of the following is required:

- Graduation from an accredited college or university with a bachelor's degree.
- Graduation from an accredited college or university with an associate's degree and two years of experience conducting investigations which require the creation of written reports, collection of evidence, and providing testimony in a formal setting.
- Four years of experience conducting investigations which require the creation of written reports, collection of evidence, and to testify in a formal setting.
- Six years of relevant military experience.
- Graduation from an accredited college or university with an associate's degree and five years of specific subject matter expertise related to a specialized field of investigation.
- Any equivalent combination of education, investigative experience, military experience, subject matter expertise, and training that may be deemed appropriate.<sup>56</sup>

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<sup>55</sup> 42 Pa.C.S. § 8953.2.

<sup>56</sup> Office of Attorney General Job Posting Publication, "Narcotics Agent Trainee/1/II," <https://www.attorneygeneral.gov/wp-content/uploads/2019/08/Narcotics-Agent-BNI-SC-8.19.pdf>, last accessed on June 30, 2020.

Applicants who have not completed the Municipal Police Officers Education and Training Commission (MPOETC) training are required to start their career with Attorney General as a Special Agent Trainee. They must then participate in the OAG Agent Field Training Program and the Commonwealth Investigators Training Program (CITP). Once they have completed these programs, the trainees are upgraded to Special Agent I or Special Agent II.<sup>57</sup> To apply to be a Special Agent I immediately, an applicant must have one of the following:

- Bachelor's degree.
- Four years of criminal investigative experience which affords the applicant the needed knowledge and skills to perform the job.
- Associate's degree and two years of criminal investigative experience which affords the applicant the needed knowledge and skills to perform the job.
- Four years of military experience.
- Any equivalent experience, training, and education.<sup>58</sup>

The applicant must also have completed the CITP. Special Agent II applicants must have both of these trainings completed as well as one of the following:

- Bachelor's degree and two years of criminal investigative experience which affords the applicant the needed knowledge and skills to perform the job.
- Six years of criminal investigative experience which affords the applicant the needed knowledge and skills to perform the job.
- Master's degree and one year of criminal investigative experience which affords the applicant the needed knowledge and skills to perform the job.
- Four years of military experience and two years of criminal investigative experience which affords the applicant the needed knowledge and skills to perform the job.
- Any equivalent experience, training, and education.<sup>59</sup>

To become a Narcotics Agent Trainee, one of the following is required:

- Graduation from an accredited college or university with a bachelor's degree.

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<sup>57</sup> *Ibid.*

<sup>58</sup> *Ibid.*

<sup>59</sup> *Ibid.*

- Graduation from an accredited college or university with an associate's degree and two years of experience conducting investigations which require the creation of written reports, collection of evidence, and to testify in a formal setting.
- Four years of experience conducting investigations which require the creation of written reports, collection of evidence, and to testify in a formal setting.
- Six years of relevant military experience.
- Graduation from an accredited college or university with an associate's degree and five years of specific subject matter expertise related to a specialized field of investigation.
- Any equivalent combination of education, investigative experience, military experience, subject matter expertise, and training that may be deemed appropriate.<sup>60</sup>

To work as a Narcotics Agent 1, one of the following is required:

- Graduation from an accredited college or university with a bachelor's degree in Criminology, Criminal Justice, Police Science or a related major.
- Four years of criminal investigative work of a technical level which affords the applicant the required knowledge, skills, and abilities.
- Any equivalent combination of experience, training, and education.<sup>61</sup>

To work as a Narcotics Agent 2, one of the following is required:

- Two years as a Narcotics Agent I.
- Graduation from an accredited college or university with a bachelor's degree in Criminology, Criminal Justice, Police Science or a related major and two years of qualifying experience in the law enforcement field.
- Six years of criminal investigative work of a technical level equivalent to the duties and responsibilities performed by a Narcotics Agent I.
- Any equivalent combination of experience, training, and education.<sup>62</sup>

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<sup>60</sup> Information provided by E-mail on November 25, 2020 from Shauna Holl, Government Affairs Assistant, Pennsylvania Office of Attorney General.

<sup>61</sup> *Ibid.*

<sup>62</sup> *Ibid.*

Like the Special Agents, Narcotics Agents are required to successfully complete the CITP. It is worth noting that the CITP was originally created in 2018. The CITP initially had an 11-week curriculum that was built from MPOETC courses along with research and input from the Federal Law Enforcement Training Center, the Georgia Bureau of Investigation and the North Carolina State Bureau of Investigation. Since 2019, all newly hired criminal law agents without MPOETC training were required to successfully complete the 11-week program.<sup>63</sup>

Beginning in 2021, the CITP will be expanded to 14 weeks and moved into the Pennsylvania State Police Academy at Hershey. Some CITP classes specifically address: use of force in law enforcement, firearms training, defensive tactics training, verbal de-escalation training, street survival training, and Oleoresin Capsicum (OC Spray) training. In addition, beginning in 2021, all criminal law agents must successfully complete 504 hours of CITP training.<sup>64</sup>

Regarding in-service training requirements, agents must receive semi-annual firearms training and also qualify twice per year with handguns and shot guns. Starting in 2021, the in-service training for all criminal law agents will be completed at the Pennsylvania State Police Regional Training Centers.<sup>65</sup>

#### *Right to Carry Firearms*

Research by Commission staff did not identify any express language directly addressing an agent's legal right to carry firearms while on duty. However, since statutory law provides these agents with the authority to enforce laws of the Commonwealth and exercise the powers of municipal police officers in specific instances, these agents would have the right to carry firearms during those aforementioned instances, and with the proper firearms training completed. Criminal law agents currently carry a handgun and may carry a shotgun in approved situations.<sup>66</sup>

All criminal law agents must train and qualify twice per year with their handgun and a shotgun. All criminal law agents must complete deadly force training annually provided by a recognized OAG Deputy Attorney General to include reviewing and discussing current, new or amended case law. The Special Operations Group Agents complete additional training hours, and those agents have completed the National Tactical Officers Association Certification.<sup>67</sup>

#### *Number of Individuals Serving*

The following table and chart below provide the number and trend of individual OAG criminal law agents serving within the Commonwealth the past five years. It should be noted that this information is updated to November 2020 and may not reflect the most recent criminal law agent retirements past this month.

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<sup>63</sup> *Ibid.*

<sup>64</sup> *Ibid.*

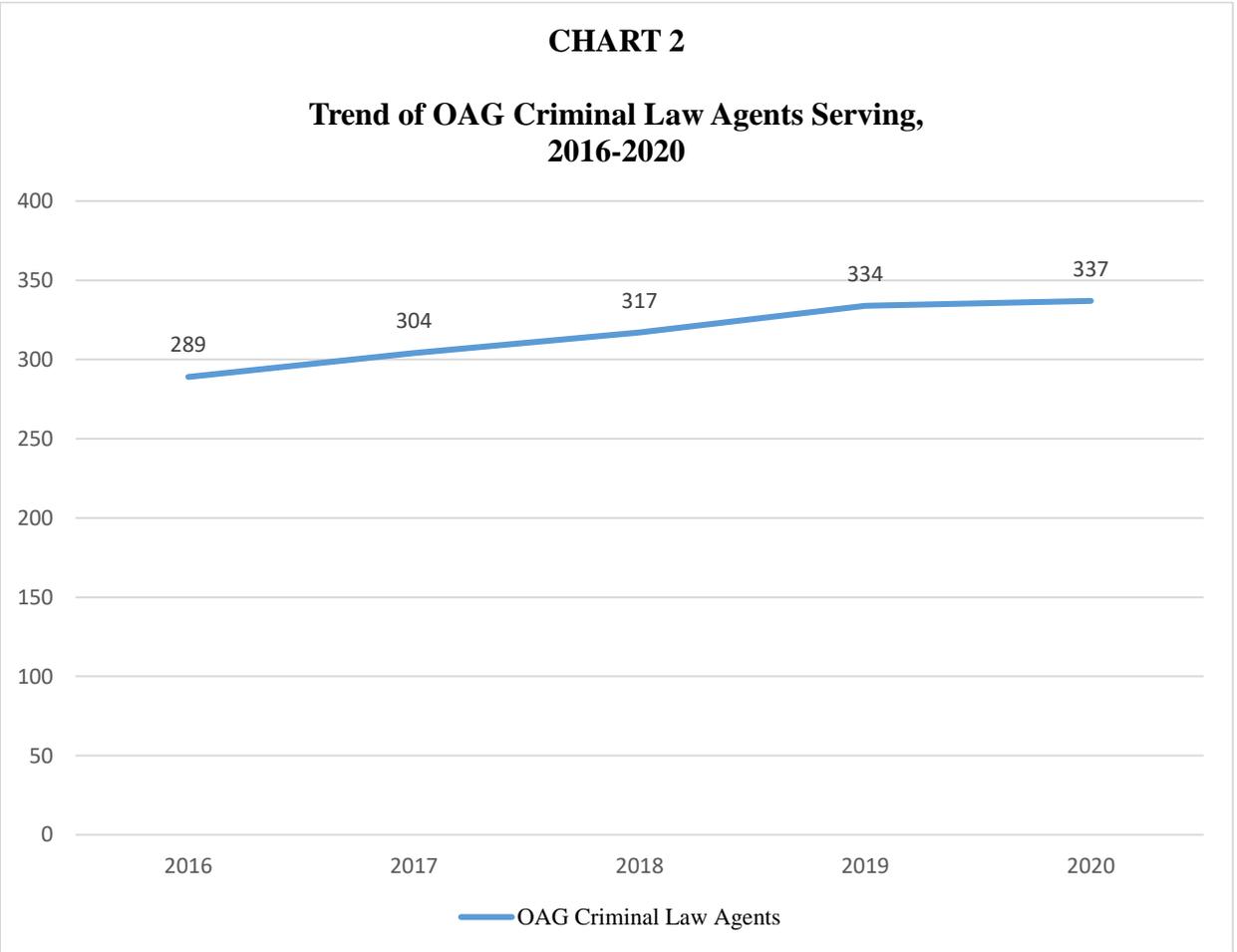
<sup>65</sup> *Ibid.*

<sup>66</sup> *Ibid.*

<sup>67</sup> *Ibid.*

<b>TABLE 2</b>					
<b>Number of AOG Criminal Law Agents Serving, 2016-2020</b>					
<b>OAG Criminal Law Agents</b>	<b>Year</b>				
	<b>2016</b>	<b>2017</b>	<b>2018</b>	<b>2019</b>	<b>2020</b>
Total	289	304	317	334	337

Source: Compiled by the Commission Staff based on data from Shauna Holl, Government Affairs Assistant, Pennsylvania Office of Attorney General.



Source: Compiled by the Commission Staff based on data from Shauna Holl, Government Affairs Assistant, Pennsylvania Office of Attorney General.

## *PA Office of State Inspector General Special Investigators*

### *Background*

The Office of Inspector General, officially known today as the Office of the State Inspector General, was originally created by Pennsylvania Executive Order 1987-7 in 1987. According to the order, the office was created to “deter, detect, prevent, and eradicate fraud, waste, misconduct, and abuse in the programs, operations, and contracting of executive agencies.” A 2017 amendment to the Administrative Code of 1929 replaced the former Officer of Inspector General with the Office of the State Inspector General (OSIG). The Act provides the OSIG with law enforcement powers such as subpoena power, the ability to issue search warrants, access criminal justice databases, and work in greater cooperation with other law enforcement.<sup>68</sup>

With offices located in Harrisburg, Pittsburgh, Philadelphia, and Wilkes-Barre, the OSIG currently has two investigative bureaus: the Bureau of Fraud Prevention and Prosecution (BFPP) and the Bureau of Special Investigations (BSI). The OSIG leadership structure consists of a State Inspector General; Chief Counsel; Bureau of Administration, Policy, and Training Director; Bureau of Fraud, Prevention, and Protection Director; Bureau of Special Investigations Director; and an External Affairs Director.<sup>69</sup> State Inspector General special investigators work within these bureaus to assist the State Inspector General in fulfilling its mission of eradicating fraud, waste, misconduct, and abuse.

After reviewing statutory law and other informative materials on the OSIG and its investigative agents, Commission staff determined that these agents, at the very least, arguably do possess certain police powers, which are primarily of an investigative nature. As such, Commission staff has included a review of these agents pursuant to the directives in HR 620 in order to err on the side of being comprehensive.

### *Legal Authority*

The legal authority for the OSIG is established within the Administrative Code of 1929.<sup>70</sup> This article was added to the Code in 2017 with the enactment of the Act of July 20, 2017 (P.L. 328, No. 29). The article was subsequently amended again in 2019.<sup>71</sup>

### *Appointing Authority*

The individual who fills the position of State Inspector General is appointed by the Governor pursuant to the Act of July 20, 2017, (P.L. 328, No. 29). Once appointed, the State Inspector General serves a term concurrent with the Governor’s term of office and has the authority

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<sup>68</sup> Office of State Inspector General, “About Us,” <https://www.osig.pa.gov/About-OSIG/Pages/default.aspx>, last accessed on July 1, 2020; Act of July 20, 2017, (P.L. 328, No. 29); 71 P.S. § 211-219.

<sup>69</sup> Office of State Inspector General, “Office of State Inspector General Leadership,” [https://www.osig.pa.gov/About-OSIG/OSIG\\_Leadership/Pages/default.aspx](https://www.osig.pa.gov/About-OSIG/OSIG_Leadership/Pages/default.aspx), last accessed on July 1, 2020.

<sup>70</sup> Act of April 9, 1929 (P.L. 177, No. 175), art. V-A, § 503-A, added by the Act of July 20, 2017, (P.L. 328, No. 29), § 1.

<sup>71</sup> Act of June 28, 2019 (P.L. 101, No. 15), § 4.

to “select, appoint and employ individuals necessary for carrying out the functions, powers and duties of the office.” The Act requires that those individuals selected or appointed be employed in accordance with current procedures of the Office of Administration. According to the Act, said employees may be assigned by the State Inspector General to a designated executive agency.<sup>72</sup> Many of the employees working within the OSIG are special investigators who carry out certain limited police powers.

#### *Duties, Scope of Authority, and Jurisdiction*

It is the duty of the acting State Inspector General to keep the head of an executive agency and the Governor informed about any deficiencies relating to the operation or administration of a program or contracts entered into by an executive agency. In addition, the State Inspector General “provides leadership, coordination and control over satellite Inspector General Offices in a designated executive agency to ensure a coordinated and efficient administration of duties and use of staff.” Consequently, each satellite Inspector General Office in an executive agency must report to and follow the direction of the State Inspector General.<sup>73</sup>

In general, special investigators working with the OSIG have the statutory authority to engage in the following duties:

- Investigate and review activities, records, and individuals with contracts, procurements, grants, agreements, and other financial arrangements undertaken by an executive agency for fraud, waste, misconduct or abuse.
- Conduct civil and administrative investigations of an executive agency program or operation.
- Make referrals to the Auditor General for the audit of an executive agency’s operations and functions and conduct reviews of the executive agency’s compliance with the performance measurement system.
- Review the reliability of information provided by an executive agency’s performance measures and standards.
- Provide evidence relating to criminal acts discovered during the course of an investigation into an executive agency to appropriate law enforcement officials.
- Receive and investigate complaints concerning alleged abuses, frauds, and service deficiencies.
- Engage in fraud and abuse prevention activities.

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<sup>72</sup> *Ibid* § 503-A(a)(5); 71 P.S. § 213(a)(5).

<sup>73</sup> *Ibid* § 503-A(b)(3); 71 P.S. § 213(b)(2)-(3).

- Refer matters for further civil, criminal, and administrative action to appropriate administrative and prosecutorial agencies.
- Conduct joint investigations and projects with other oversight or law enforcement agencies.
- Recommend remedial actions to be taken by an executive agency to overcome or correct operating or maintenance deficiencies.
- Issue public reports.
- Maintain information regarding the cost of investigations and cooperate with appropriate administrative and prosecutorial agencies in recovering the costs from nongovernmental entities involved in willful misconduct.
- Perform other functions necessary to carry out the requirements of Act 29.<sup>74</sup>

According to the information provided on the OSIG’s official government website, there are two primary categories of OSIG special investigators within its Bureau of Special Investigations: Special Investigator 1 and Special Investigator 2. Specifically, a Special Investigator 1 “handles basic investigative assignments involving special programs and operations of executive agencies by collecting, evaluating and developing evidence, conducting surveillance, contacting informants, examining records and using investigative equipment.”<sup>75</sup> A Special Investigator 2 is “responsible for difficult and complex investigative work involving the programs and operations of executive agencies.”<sup>76</sup> Such work ranges from “the analyzing of complaints to determine the course and scope of the investigation to the directing of subordinates to the recommending of changes in operations to prevent future violations.”<sup>77</sup>

### *Qualifications and Required Training*

Qualifications for OSIG special investigators vary depending on the level of investigator. For a Special Investigator 1, the OSIG requires minimum experience and training of two years in criminal investigation work and a bachelor’s degree or any equivalent combination of experience and training. Alternatively, a Special Investigator 2 is required to have a minimum level of experience and training that includes at least four years in progressively responsible criminal investigation work, along with a bachelor’s degree or any equivalent combination of experience and training.<sup>78</sup>

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<sup>74</sup> *Ibid* § 503-A(c)(1)-(13) ; 71 P.S. § 213(c)(1)-(13).

<sup>75</sup> Office of State Inspector General, “Bureau of Special Investigations,” <https://www.osig.pa.gov/Employment/BSI/Pages/default.aspx>, last accessed on July 1, 2020.

<sup>76</sup> *Ibid*.

<sup>77</sup> *Ibid*.

<sup>78</sup> *Ibid*.

### *Right to Carry Firearms*

There does not appear to be any authority, statutory or otherwise, that expressly provides OSIG special investigators the right to carry and utilize firearms in the discharge of their investigative duties.

### *Number of Individuals Serving*

Commission staff sought service and employment data regarding OSIG special investigators from the OSIG but was unable to obtain said information.

## ***Capitol Police and Commonwealth Property Police***

### *Background*

The Pennsylvania Capitol Police Department was established on March 26, 1895 by Governor Daniel Hartman Hastings.<sup>79</sup> It is second only to the Texas Rangers as the oldest state police organization in the country.<sup>80</sup> At the time of the department's inception, the Capitol Police patrolled the original Capitol (it had not yet burned down at that time), answering to the Superintendent of Public Grounds and Buildings. At that point, five officers and one sergeant were appointed by the Board of Public Grounds and Buildings and worked for a salary of \$900 for the officers and \$1,000 for the sergeant. The Capitol Police Department has since moved under the authority of the Department of General Services. Capitol police officers have jurisdiction within the Capitol Complex, state buildings in Philadelphia, Pittsburgh, and Scranton, and at fifteen additional state-leased or owned locations throughout the state.<sup>81</sup>

Officers patrol the Capitol Complex, monitor the entrances, and watch security footage on a 24-hour, seven-day a week basis. Officers can be dispatched after calls from employees or the public to their communications center. There are four specialized units within the Capitol Police: the Investigation Section, Bicycle Unit, K-9 Unit, and Quick Response Team. The Capitol Police is dually accredited through the Pennsylvania Law Enforcement Accreditation Commission and the Commission on Accreditation for Law Enforcement Agencies, Inc.<sup>82</sup> The current mission statement of the Capitol Police Department is as follows:

**Commitment:** We have a commitment to those we serve.

**Integrity:** We conduct ourselves in a professional manner to earn the trust of the people we serve.

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<sup>79</sup> International Association of Chiefs of Police, "Pennsylvania Capitol Police," <https://www.theiacp.org/sites/default/files/all/p-r/PennsylvaniaCapitolPoliceOct2013.pdf>, last accessed on April 22, 2020.

<sup>80</sup> "The Capitol Police," Department of General Services, last accessed April 22, 2020, <https://www.dgs.pa.gov/police/Pages/default.aspx>.

<sup>81</sup> "Pennsylvania Capitol Police," International Association of Chiefs of Police.

<sup>82</sup> *Ibid.*

**People:** We respect and value each other and promote teamwork.

**Equality:** All persons are equal regardless of race, color, creed, ethnic background, physical disabilities, or lifestyles.

### *Legal Authority*

The legal authority establishing the Capitol Police can be found in the Administrative Code of 1929 (Administrative Code). In particular, the Code provides the scope of authority and duties for Capitol Police, Commonwealth Property Police, and Campus Police. Commission staff have not found any individual Commonwealth Property Police. It is possible that today, the Capitol Police and Commonwealth Property Police encompass one police force. Despite this possibility, the Administrative Code authorizes Commonwealth Property Police to enforce “good order in State buildings and on State grounds in Dauphin County, in the Pittsburgh State Office Building and the grounds, in the Philadelphia State Office Building and the grounds, and in the grounds and buildings of all State colleges and universities, State aided or related colleges and universities and community colleges.” These officers would essentially provide the same patrol and protection of state-owned buildings as Capitol Police provide for Capitol Complex property.<sup>83</sup>

### *Appointing Authority*

The Department of General Services is granted the authority, subject to the powers vested in the Board of Commissioners of Public Grounds and Buildings, “to control and supervise the State Capitol Building, and the public grounds and buildings connected with the State Capitol ... and to employ such captains, sergeants of police, and police officers, as may be necessary to preserve good order in the Capitol grounds and buildings...” Such captains, sergeants, and officers are known as the Capitol Police and Commonwealth Property Police.<sup>84</sup>

### *Duties, Scope of Authority, and Jurisdiction*

Officers of the Capitol Police have the authority to enforce good order on state property and protect it. They are empowered to remove any person acting disorderly, including vagrants, loafers, and those doing damage to state property, by any means necessary. They have the same powers as other police officers in the cities in which they are located and have the authority to arrest any person who shall damage, mutilate or destroy the trees, plants, shrubbery, turf, grass-plots, benches, buildings or structures, or commit any other offense within the Capitol Complex grounds.<sup>85</sup>

Along with their other duties, the Capitol Police provide police escorts for employees from their buildings to their cars after work hours, conduct building and office security assessments when requested, provide K9 unit demonstrations, and run the lost and found for the Capitol

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<sup>83</sup> Act of April 9, 1929 (P.L. 177, No. 175), art. XXIV, § 2416; 71 P.S. § 646(a)-(b).

<sup>84</sup> *Ibid* § 2402; 71 P.S. § 632.

<sup>85</sup> *Ibid* § 2416; 71 P.S. § 646.

Complex. Additionally, the Capitol Police provides training on active shooter scenarios, crime prevention and personal safety, bomb threat response, beginner’s self-defense, and first aid.<sup>86</sup>

*Qualifications and Required Training*

To qualify for the Capitol Police, applicants must be 21 years of age or older, residents of Pennsylvania, have a Pennsylvania drivers’ license, and have completed the Municipal Police Officers’ Education and Training Commission (MPOETC) training.<sup>87</sup> For MPOETC training requirements, see *Municipal Police*.

*Right to Carry Firearms*

With respect to the right to carry firearms, Capitol Police and Commonwealth Property Police maintain the same powers as other police officers in the cities in which they are located, which includes the right to carry firearms throughout the scope of their duties.

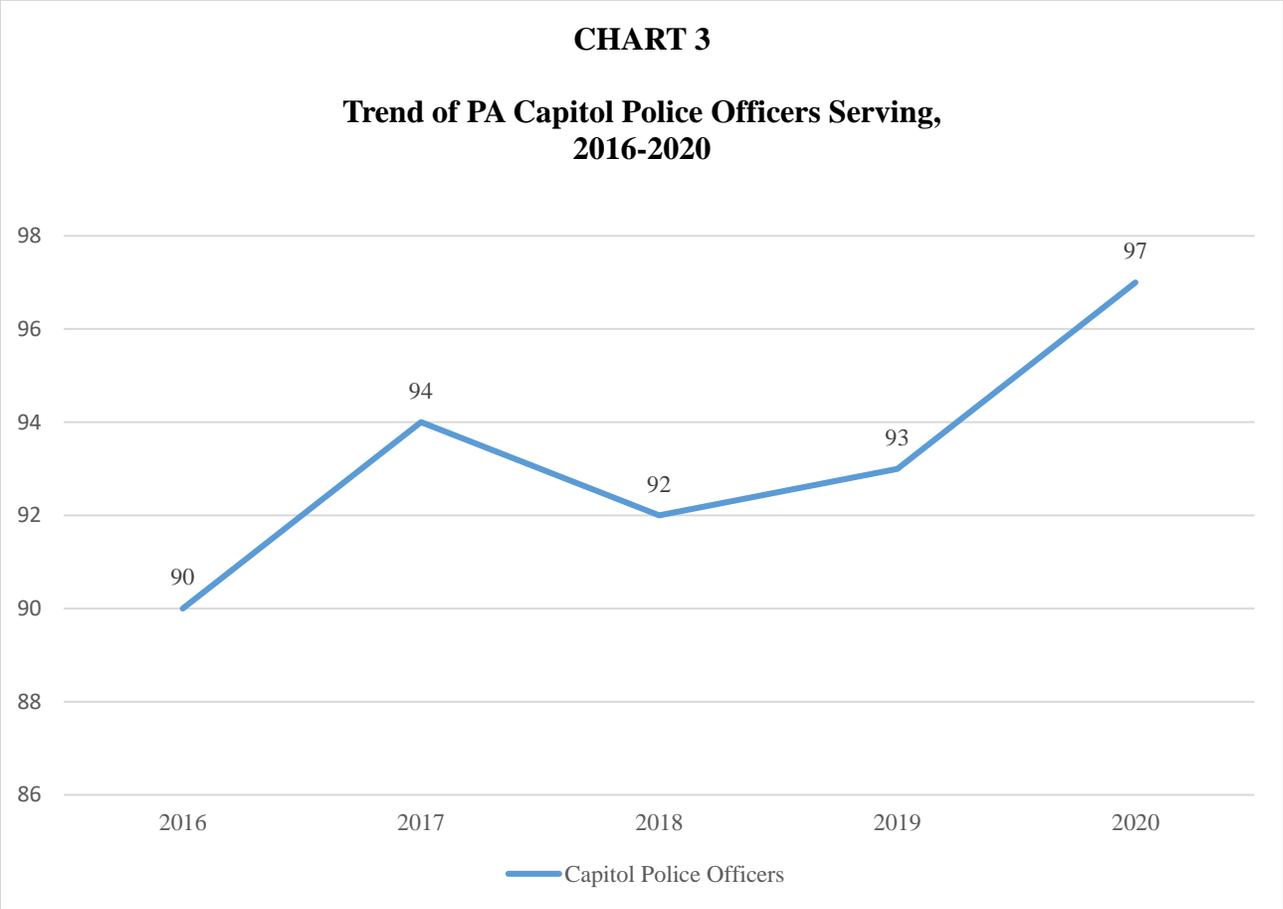
*Number of Individuals Serving 2016 – 2020*

The following table and chart below provide the number and trend of individual Capitol Police officers serving within the Commonwealth the past five years. It should be noted that these data are updated to June 30, 2020 and might not reflect the most recent officer retirements past this date.

<b>TABLE 3</b>					
<b>Number of PA Capitol Police Officers Serving, 2016-2020</b>					
<b>Capitol Police Officers</b>	<b>Year</b>				
	<b>2016</b>	<b>2017</b>	<b>2018</b>	<b>2019</b>	<b>2020</b>
Total	90	94	92	93	97
Source: Compiled by the Commission Staff based on data from Kevin Brown, Deputy Superintendent, DGS, Pennsylvania Capitol Police.					

<sup>86</sup> “Services and Training,” Department of General Services, accessed April 22, 2020, <https://www.dgs.pa.gov/police/Pages/Services-Training.aspx>.

<sup>87</sup> “Employees and Employment,” Department of General Services, accessed April 22, 2020, <https://www.dgs.pa.gov/About/Pages/Employment.aspx>.



Source: Compiled by the Commission Staff based on data from Kevin Brown, Deputy Superintendent, DGS, Pennsylvania Capitol Police.

Commission staff was unable to find any numerical employment data on Commonwealth Property police officers serving within Pennsylvania for the past five years.

***State Institutional Police***

***Background***

Pennsylvania law authorizes the head of each administrative department with jurisdiction under:

any penal, reformatory or correctional institution, mental hospital or any institution for feeble-minded or epileptic persons for inebriates, or for juvenile delinquents and defectives, or any medical and surgical hospital, hospital for crippled children, sanitorium, or any

charitable institution whatsoever within this Commonwealth, maintained in whole or in part by the Commonwealth, and whose boards of inspectors, managers, trustees, or directors are appointed by the Governor, shall certify to the Governor the names of employes of such institutions to act as police officers thereat.<sup>88</sup>

There are a number of these state institutions that are currently in operation today. As of late 2020, the Department of Human Services (DHS) operates four state centers: Ebensburg in Cambria County, Polk in Venango County, Selinsgrove in Snyder County, and White Haven in Luzerne County. DHS operates six state hospitals at Clarks Summit in Lackawanna County, Danville in Montour County, Torrance in Westmoreland County, Warren in Warren County, and Wernersville in Berks County. Additionally, DHS operates South Mountain Restoration Center in Franklin County as a long-term care facility for persons with psychiatric needs. Additionally, DHS operates three youth development centers: South Mountain Secure Treatment Unit in Franklin County, the North Central Secure Treatment Unit in Montour County, and the Loysville Youth Development Center in Perry County. The two youth forestry camps under DHS jurisdiction are Youth Forestry Camp #2 in Hickory Run State Park in Luzerne County and Youth Forestry Camp #3 in Trough Creek State Park in Huntingdon County.

#### *Legal Authority*

The legal authority for state institutional police officers assigned to any of the institutions discussed above can be found in a law enacted originally in 1943.

#### *Appointing Authority*

Ultimately, the Governor has the authority to approve the persons designated by the administrative department heads to serve as police officers at their particular facility.<sup>89</sup>

#### *Duties, Scope of Authority, and Jurisdiction*

Once the designated individual is approved by the Governor, said designated individual is authorized by law to “exercise full power to make arrests, without warrant, for all violations of law which they may witness upon any part of the premises of the institution at which they are employed.”<sup>90</sup> These officers are also authorized to serve and execute warrants issued by the proper local authorities for any violation of law committed within their designated facility, and to arrest, with or without warrant, anywhere within the Commonwealth, any inmate of such institution that may have escaped. The law further provides that “for such purposes and generally on the premises of such building or installation, the persons so commissioned shall have all the powers and prerogatives conferred by law upon constables...”<sup>91</sup>

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<sup>88</sup> Act of May 21, 1943 (P.L. 469, No. 210); 71 P.S. § 1791 *et seq.*

<sup>89</sup> *Ibid.*

<sup>90</sup> *Ibid.*

<sup>91</sup> *Ibid.*

### *Qualifications and Training*

There did not appear to be any express qualifications or training requirements within the statute, however, given that these officers have all the powers and prerogatives of Pennsylvania constables, it may be implied that institutional police officers may have to undergo the same training as constables. *See Constables.*

### *Right to Carry Firearms*

There is no express language in the statute addressing these officers' right to carry firearms while on duty. However, since these officers are generally provided "all the powers and prerogatives conferred by law upon constables..." they would likely have the same right to carry firearms as constables. As will be mentioned later in this report, constables have the right to carry a firearm, however, if they elect to carry a firearm during the performance of their duties, they are required to receive firearm certification pursuant to the provisions of 44 Pa.C.S. § 7148.

### *Number of Individuals Serving*

Commission staff was unable to obtain reliable and current employment information as to the number of institutional police serving within the Commonwealth.



# CORRECTIONAL INSTITUTIONS

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## *Corrections Officers*

### *Background*

State corrections officers, the primary law enforcement officials within the Pennsylvania Department of Corrections (DOC), are a significant part of its 15,000-person workforce. Corrections officers serve within their respective correctional facility (and sometimes at the DOC Central Office) within the Commonwealth to guard, protect, and assist in the delivery and transport of state prisoners. They are a critical part of the state's correction system.

Pennsylvania's correction system has a longstanding history. The Commonwealth is considered the "birthplace of the penitentiary concept," a concept that has origins traceable to the opening of Eastern State Penitentiary. Eastern State Penitentiary, recognized by historians to be "the first true penitentiary" opened in 1829, just outside of Philadelphia. Eastern State was in continuous operation until it was shuttered in 1970.<sup>92</sup>

The Pennsylvania Bureau of Correction was created in 1953. The bureau's creation was based on "a report by Retired Army Major General Jacob L. Devers and his special committee to investigate prison problems." The committee's mission was to recommend ways to improve the correctional system and reduce unrest. Prior to 1953, the state's prisons fell under the Department of Welfare, where each prison was governed individually by its own boards of trustees. It was the Devers Committee's recommendation that there be one agency, whose sole purpose was to manage the state prison system as a whole.<sup>93</sup>

For a while the Bureau of Correction fell under the former Pennsylvania Department of Justice, however, in 1980 it was shifted under the auspices of the newly created Office of General Counsel to the Governor. Pennsylvania's Department of Justice was later disbanded. In 1984, the Bureau of Correction "was elevated to cabinet-level status, which resulted in it being renamed to the Pennsylvania Department of Corrections."<sup>94</sup>

The Commonwealth's DOC has grown significantly over the past few decades. As of Fiscal Year 2017-2018, the Department had a budget of \$2.5 billion and oversaw "24 state correctional institutions, one motivational boot camp, 14 community corrections centers, approximately 50 contract facilities, a training academy, 15,000 employees and nearly 50,000 inmates."<sup>95</sup>

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<sup>92</sup> Pennsylvania Department of Corrections, "History," <https://www.cor.pa.gov/About%20Us/Pages/History.aspx>, last accessed April 7, 2020.

<sup>93</sup> *Ibid.*

<sup>94</sup> *Ibid.*

<sup>95</sup> *Ibid.*

## *Legal Authority*

The legal authority establishing the duties and jurisdiction of Pennsylvania corrections officers is rooted primarily in statutory law enacted and codified under Title 61 of the Pennsylvania Consolidated Statutes in 2009.

## *Appointing Authority*

The DOC has the authority to prescribe, adopt, promulgate and enforce rules and regulations in order to administer the provisions of the law pertaining to correctional institutions. The DOC appoints and employs state correctional officers based on internal regulations and DOC policies that set and establish training, scope of authority, jurisdiction, and duties for said officers. The law also grants the DOC authority to “establish standards for county correctional institutions, including, but not limited to, standards for physical facilities and standards for correctional programs of treatment, education and rehabilitation of inmates.”<sup>96</sup> Moreover, the DOC has the authority to inspect county correctional institutions and to classify them.<sup>97</sup> County corrections officers will be briefly mentioned at the end of this section.

## *Duties, Scope of Authority, and Jurisdiction*

It is important to note that there are varying levels or classifications of corrections officers within the DOC which begin with a corrections officer trainee and then go on to range from corrections officers 1 through 5. Specific work duties differ to a certain extent based on the classification. For example, corrections officer trainees engage in “structured and specialized trainee work in the care, custody, control, and non-professional counseling of inmates in state correctional facilities.” Work for a trainee includes observing and participating in the security and discipline of inmates during various activities, observing unusual inmate behavior and reporting such behavior to a corrections officer, and assisting in the movement and supervision of inmates in and around the corrections facility.<sup>98</sup> Corrections officers 1 through 5 duties are as follows:

Corrections Officer 1 – A corrections officer 1 engages in the care, custody, control, and non-professional counseling of inmates within the correctional facility on an assigned shift. These officers direct inmate activities in cellblocks, housing units, work areas, dining areas, and recreation areas. These officers observe the inmates and ensure that they are complying with the facility’s rules. In addition, these officers inspect inmate living areas for cleanliness, contraband, stolen goods, and signs of escape plans or procedures. Other duties of these officers include, but are not limited to, quelling disturbances, assisting officers in emergency situations, and reporting inmates involved in such disturbances. A corrections officer 1 is also generally responsible for overseeing inmates during periods of exercise, recreation, meals, showers, and other activities.<sup>99</sup>

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<sup>96</sup> 61 Pa.C.S. § 1105(a)(1)-(3).

<sup>97</sup> *Ibid.*

<sup>98</sup> Department of Corrections & Parole, Corrections Officer Trainee Job Description, January 1, 2019 provided by Nicolette Bell, Director, Bureau of Administration.

<sup>99</sup> Department of Corrections & Parole, Corrections Officer 1 Job Description, January 1, 2019 provided by Nicolette Bell, Director, Bureau of Administration.

Corrections Officer 2 – A corrections officer 2 engages in lead work or other specialized work in the care, custody, control, and non-professional counseling of inmates within the correctional facility on an assigned shift. Some specific duties of a level 2 corrections officer includes: instructing lower-level security personnel regarding procedures, security measures, or the necessary course of action to be taken in certain circumstances. Like level 1 corrections officers, level 2 corrections officers also inspect inmate living areas for cleanliness, contraband, stolen goods, and signs of an escape plan. They also control access to and egress from inmate cellblocks, cottages, and housing units through the operation of electronic equipment.<sup>100</sup>

Corrections Officer 3 – Level 3 corrections officers serve in a supervisory role and often become involved in the administrative work in the care, custody, control, and non-professional counseling of inmates on an assigned shift in a correctional facility. These officers also may carry out administrative duties within the Central Office of the DOC. A corrections officer 3 is generally responsible for assisting in the development and implementation of security policies and procedures, along with policies addressing inmate abuse allegations, staff misconduct, drug interdiction, or other operational areas. Level 3 corrections officers can also be assigned to the DOC's training academy in an administrative or training capacity. Duties of a corrections officer 3 also includes, but is not limited to, supervising and directing subordinate corrections officers and supervising and participating in searches of inmates and visitors to the facility. These officers also serve as a member on a facility Program Review Committee and serve as a liaison with agency facilities or federal, state, and local law enforcement agencies.<sup>101</sup>

Corrections Officer 4 – For this level, corrections officers serve in an advanced administrative and supervisory role. The duties of a corrections officer 4 are very similar to that of a corrections officer 3.<sup>102</sup>

Corrections Officer 5 – This is the highest level of corrections officer within the DOC. These officers engage in professional and managerial work involving the administration of the security program or the directing of the unit management teams within correctional facilities. These officers also work at the agency level as administrators within the Central Office of the DOC. A corrections officer 5 is responsible for managing and directing the implementation of departmental programs and related policies. They perform a full range of supervisory duties within the department. Among other duties, a corrections officer 5 is also in charge of conducting inspections of a correctional facility on a regular basis to ensure that security operations are being properly carried out.<sup>103</sup>

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<sup>100</sup> Department of Corrections & Parole, Corrections Officer 2 Job Description, January 1, 2019 provided by Nicolette Bell, Director, Bureau of Administration.

<sup>101</sup> Department of Corrections & Parole, Corrections Officer 3 Job Description, January 1, 2019 provided by Nicolette Bell, Director, Bureau of Administration.

<sup>102</sup> Department of Corrections & Parole, Corrections Officer 4 Job Description, January 1, 2019 provided by Nicolette Bell, Director, Bureau of Administration.

<sup>103</sup> Department of Corrections & Parole, Corrections Officer 5 Job Description, January 1, 2019 provided by Nicolette Bell, Director, Bureau of Administration.

## *Qualifications*

An applicant interested in being a corrections officer must be a Pennsylvania resident over the age of 21. To be considered for a corrections officer position, an applicant must pass a Civil Service examination. Once given a conditional offer for the position, the applicant must pass a medical and psychological evaluation, a drug test, and a background check.<sup>104</sup>

## *Required Training*

An accepted applicant, now operating under the label of Corrections Officer Trainee, will spend the first two weeks at the facility he has been assigned to for orientation and to observe shifts. Then he or she spends five weeks at the Department of Corrections Training Academy Basic Training Program in Elizabethtown, Pennsylvania.<sup>105</sup> The 2020 syllabus for this program offers 180 hours of education in courses on topics that include assault management, firearm training, incident response, inmate discipline, sexual harassment awareness, suicide prevention, report writing, riot baton, Naloxone training, fundamentals of security, hostage training, and several other subjects.<sup>106</sup> After a twelve month training period, a Corrections Officer Trainee is promoted to Corrections Officer 1 status.<sup>107</sup>

## *Right to Carry Firearms*

Corrections officers are authorized to carry and use firearms in the course of their duties and have the right to carry a firearm concealed without having to obtain a valid and lawfully issued license to carry as is required for regular civilians under the Pennsylvania Uniform Firearms Act. This right under the Uniform Firearms Act has been provided to constables, sheriffs, municipal police officers, and other law enforcement officers throughout the Commonwealth.<sup>108</sup> As trainees move into their formal basic training to become a Corrections Officer 1, they must take multiple firearms training courses to ready themselves for the carrying and use of a firearm during the course of their official duties.

## *Number of Individuals Serving 2016 – 2020*

The following table and chart below provide the number and trend of individual corrections officers serving within the Commonwealth the past five years. It should be noted that these data totals are rounded averages for each year.

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<sup>104</sup> Pennsylvania Department of Corrections, “Requirements for Corrections Officer Trainee,” <https://www.cor.pa.gov/Employment/Documents/COT%20Requirements.pdf>, last accessed on April 9, 2020.

<sup>105</sup> Pennsylvania Department of Corrections, “Training Academy,” <https://www.cor.pa.gov/Employment/Documents/COT%20Selection%20Procedures.pdf>, last accessed on April 9, 2020.

<sup>106</sup> Pennsylvania Department of Corrections, Pennsylvania Board of Probation and Parole, “Department of Corrections Basic Training Course Descriptions 2020,” <https://www.cor.pa.gov/Facilities/Documents/2020%20Basic%20Training%20Program%20Syllabus.pdf>, last accessed on April 9, 2020.

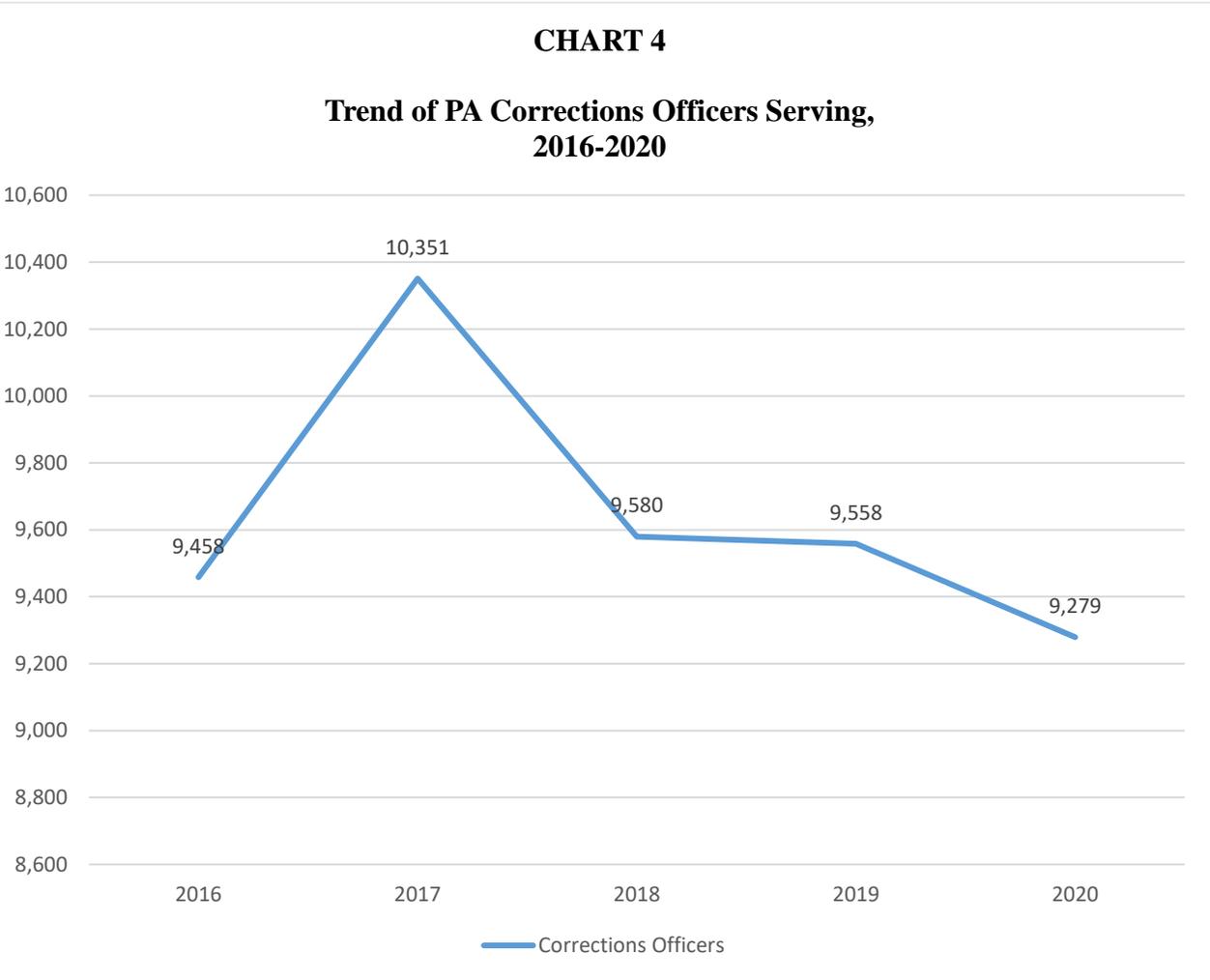
<sup>107</sup> Pennsylvania Department of Corrections, “COT Selection Procedures,” <https://www.cor.pa.gov/Employment/Documents/COT%20Selection%20Procedures.pdf>, last accessed on April 9, 2020.

<sup>108</sup> 18 Pa.C.S. § 6106(a)(b).

**TABLE 4**  
**Number of PA Corrections Officers Serving within Department of Corrections,  
 2016-2020**

Corrections Officers	Year				
	2016	2017	2018	2019	2020
Total	9,458	10,351	9,580	9,558	9,279

Source: Compiled by the Commission based on data from Nicolette Bell, Ph.D., Director, Bureau of Administration, Pennsylvania Department of Corrections and Parole.



Source: Compiled by the Commission based on data from Nicolette Bell, Ph.D., Director, Bureau of Administration, Pennsylvania Department of Corrections and Parole.

## *County Correctional Institutions*

In addition to serving in state correctional institutions, corrections officers in Pennsylvania also serve in county correctional facilities. Depending on the class of county, county oversight boards or boards of inspectors are established “to provide for the safekeeping, discipline and employment of inmates and the government and management of the correctional institution” within their county-wide jurisdiction.<sup>109</sup> For instance, a board of inspectors is established in county jails situated in counties of the third, fourth, and fifth classes. These boards appoint the warden of their respective county correctional institution. The warden, subject to the approval of the board, may then appoint a deputy or deputies, assistant or assistants or corrections officers to enforce order in their county correctional institution.<sup>110</sup> County corrections officers generally have no appointment authority themselves.

Corrections officers serving in county correctional institutions possess the powers of peace officers in fulfilling their general duties for the correctional institutions in which they serve, which are as follows:

- (1) Guarding, protecting and delivering inmates.
- (2) Protecting the property and interests of the county.
- (3) Capturing and returning escaped inmates that may have escaped.<sup>111</sup>

## *Parole Agents and Probation Officers*

### *Background*

The term “parole” is derived from the French term “parol” meaning “word of honor” and references prisoners of war who promised to not take up arms in current conflict if released.<sup>112</sup> In Pennsylvania, the term “parole” is defined as “the conditional release of an inmate from incarceration to continue serving the balance of his or her sentence under supervision within the community.”<sup>113</sup> Parole is recognized as a privilege, not a legal right. In other words, it is not automatic or guaranteed under the laws of the Commonwealth. Moreover, it may be revoked for violations of the conditions of parole or for new criminal convictions. Parole is not to be confused with the term “probation,” which is a court sentence ordering supervision in the community instead of a prison sentence. Parole is also distinguishable from a pardon or a commutation of sentence,

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<sup>109</sup> 61 Pa.C.S. § 1723(a), § 1731(a).

<sup>110</sup> 61 Pa.C.S. § 1733.

<sup>111</sup> 61 Pa.C.S. § 1734.

<sup>112</sup> USLEGAL.com, “Probation and Parole: History,” <https://criminallaw.uslegal.com/probation-and-parole/parole/history/>, last accessed on April 14, 2020.

<sup>113</sup> Pennsylvania Board of Probation and Parole, “About the Parole Board,” <https://www.pparole.pa.gov/About%20PBPP/Pages/default.aspx>, last accessed on April 16, 2020.

which is handled directly by Pennsylvania’s Board of Pardons.<sup>114</sup> Parole also takes place primarily at the state level, whereas probation services generally take place at the county level. Currently there are only two counties in the Commonwealth that utilize state parole agents for probation matters. In certain specific cases, parole agents may also become involved in county probation matters in counties that utilize their own probation offices.<sup>115</sup>

The concepts of parole and probation as each term is known today can be traced to judicial practices exercised in English courts. For example, the English authority to grant judicial reprieve empowered judges the ability “to temporarily suspend either the imposition or execution of a sentence in order to permit a defendant to appeal to the Crown for a pardon.”<sup>116</sup> Suspensions were generally intended to be temporary, however, further prosecution of such cases were sometimes abandoned.<sup>117</sup>

In the U.S., judges have exercised similar power, enabling them to suspend the sentence of a convicted defendant if there was an existing miscarriage of justice throughout the conviction process. The judge’s power to suspend a sentence was eventually extended to cases where no such miscarriage of justice existed, but rather “to give defendants another chance.”<sup>118</sup> The first documented official use of early release from prison in the U.S. has been credited to Samuel G. Howe in Boston in the year 1847.<sup>119</sup> These suspensions were challenged near the turn of the 20<sup>th</sup> century in a New York state court in 1894 and later in the U.S. Supreme Court in 1916. Both courts held that absent legislative authorization or directive, judges did not possess the legal authority to suspend sentences.<sup>120</sup> By 1938, parole was used as a conditional pardon in many states.<sup>121</sup>

The Pennsylvania Board of Probation and Parole (Parole Board) was established in 1941.<sup>122</sup> Those behind the enactment of the act believed that the parole system would provide several benefits to the Commonwealth’s criminal justice system, “including the provision of adequate supervision of the offender while protecting the public, the opportunity for the offender to become a useful member of society, and the diversion of appropriate offenders from prison.”<sup>123</sup>

The board is often referred to as the Pennsylvania Parole Board, however, today its official title is the Board of Probation and Parole. The Parole Board is an independent administrative board for the administration of the parole laws of this Commonwealth.<sup>124</sup> Currently, the board’s

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<sup>114</sup> *Ibid.*

<sup>115</sup> Phone Call on October 21, 2020 with Nicolette Bell, Director of Bureau of Administration, Pennsylvania Department of Corrections.

<sup>116</sup> H. Abidinsky, *Probation and Parole: Theory and Practice*. 6th ed. Upper Saddle River, NJ, Prentice Hall, (1997).

<sup>117</sup> H.E. Allen, *et. al.*, *Probation and Parole in America*. New York: Free Press, (1985).

<sup>118</sup> Law Library – American Law and Legal Information, “Probation and Parole: History, Goals, and Decision-Making,” <https://law.jrank.org/pages/1817/Probation-Parole-History-Goals-Decision-Making-Origins-probation-parole.html>.

<sup>119</sup> *Supra*, n. 112.

<sup>120</sup> *Supra*, n. 116.

<sup>121</sup> *Supra*, n. 112.

<sup>122</sup> Act of August 6, 1941 (P.L. 861, No. 323), § 27.

<sup>123</sup> 61 Pa.C.S. § 6102(1).

<sup>124</sup> 61 Pa.C.S. § 6111(a).

mission statement is to “promote public safety by using evidence-based practices to make equitable parole decisions that allow for respect and protection of crime victims, rehabilitation and positive change, and prevention of future crimes...”<sup>125</sup> According to its mission statement, the board also “strives to create a just, efficient and transparent parole process that is respectful of all persons, and operates with integrity and without bias.”<sup>126</sup>

In addition, the Parole Board is obligated to address feedback from crime victims, assist in the fair administration of justice by ensuring the custody, control, and treatment of paroled offenders, consider any applicable guidelines established by the Pennsylvania Commission on Sentencing, and ensure that parole proceedings, release, and recommitment are administered efficiently and timely.<sup>127</sup> A critical part of the Parole Board’s mission throughout its history has been the work (which will be discussed in greater detail below) performed by parole agents. Parole agents are those professionals who supervise the individuals released from incarceration within the Department of Corrections to parole supervision. Currently there are parole staff in one of 10 separate district offices or 16 sub offices throughout Pennsylvania.<sup>128</sup>

Membership on the board consists of nine members who are appointed by the Governor, by and with the advice and consent of a majority of the Senate. Each member holds office for a term of six years or until that member’s successor has been duly appointed and qualified, but no more than 90 days beyond the expiration of that member’s appointed term.<sup>129</sup>

The Parole Board has specific duties and powers, some of which include supervising and preparing presentence investigations and reports, collecting and maintaining copies of all presentence investigations and reports, collecting and maintaining a record of all persons placed on parole, and adopting regulations establishing specific composition, functions and responsibilities for citizens advisory committees. The board also is responsible for adopting regulations establishing criteria for board acceptance of cases for supervision and presentence investigations from counties that on December 31, 1985, maintained adult probation offices and parole systems, and entering into contracts for purchasing community services to assist parolees and to supplement existing programs.<sup>130</sup>

On October 19, 2017, a Memorandum of Understanding (MOU) was executed between the Department of Corrections (DOC) and the Parole Board, resulting in the merger of the agencies’ similar, shared, and overlapping resources and functions, while maintaining the agencies’ individual autonomy. The community supervision of parolees, along with all other reentry services are now currently combined under a new, centralized chain of command. The consolidation was

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<sup>125</sup> *Supra*, n. 113.

<sup>126</sup> *Ibid.*

<sup>127</sup> 61 Pa.C.S. § 6102(3).

<sup>128</sup> Pennsylvania Department of Corrections, “Parole Offices,” <https://www.cor.pa.gov/parole-supervision/Pages/Parole-Offices.aspx>, last accessed on April 15, 2020.

<sup>129</sup> 61 Pa.C.S. § 6111(b).

<sup>130</sup> 61 Pa.C.S. § 6131.

intended to eliminate redundancies while still allowing the agencies to perform their individual missions.<sup>131</sup>

### *Legal Authority*

The legal authority establishing the position of parole agent, along with its duties, scope of authority, and jurisdiction is found within Title 61 of the Pennsylvania Consolidated Statutes (relating to Prisons and Parole Code). The legal authority establishing the authority of probation officers can be found in 42 Pa.C.S. § 6304. Title 61 also covers probation officers as well.

### *Appointing Authority*

Parole agents are appointed in the various district offices by the Parole Board along with clerks, stenographers, and other agents and employees necessary to administer the parole system within the Commonwealth.<sup>132</sup> Probation officers are generally appointed by the court which requires that individual appointed officers submit to the Parole Board any information the board requires.<sup>133</sup>

### *Duties, Scope of Authority, and Jurisdiction*

Parole agents are considered peace officers and thus, have police power and authority throughout Pennsylvania to arrest without a warrant, writ, rule, or process any parolee or probationer who has violated the terms of his or her parole or probation in any way.<sup>134</sup> The parole officer's role is defined as a "supervisory relationship... to assist the offenders in their rehabilitation and reassimilation into the community and to protect the public."<sup>135</sup> Parole agents are expected to enforce the conditions of the person's parole while keeping in mind the ultimate goal of successful rehabilitation and reentry into society. Parole agents are empowered to conduct personal searches if there is a reasonable suspicion to believe that the offender possesses contraband or other evidence of violations of the conditions of supervision when an offender is transported or taken into custody and upon an offender entering or leaving the securing enclosure of a correctional institution, jail, or detention facility.<sup>136</sup>

Agents can conduct property searches if they have reasonable suspicion to believe they will find evidence of parole violations. These searches should be approved by a supervisor unless there are exigent circumstances surrounding the search. In that case, the agent must file a report for the offender's record after the search which includes the exigent circumstances that precipitated the search. Reasonable suspicion is defined by constitutional provisions and judicial decisions. Agents do not have the authority to conduct a personal or property search of an offender who is residing

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<sup>131</sup> Pennsylvania Parole Board, "Parole Supervision," <https://www.parole.pa.gov/Parole%20101/Parole%20Supervision/Pages/default.aspx>, last accessed on November 19, 2020.

<sup>132</sup> 61 Pa.C.S. § 6120(a).

<sup>133</sup> 61 Pa.C.S. § 6131.

<sup>134</sup> 61 Pa.C.S. § 6152.

<sup>135</sup> 61 Pa.C.S. § 6153.

<sup>136</sup> *Ibid.*

in a foreign state except for the limited purposes permitted under the Interstate Compact for the Supervision of Offenders and Probationers.<sup>137</sup>

Like parole agents, probation officers are declared by law to be a “peace officer” with police powers and authority throughout Pennsylvania to arrest, with or without warrant, writ, rule or process, any individual on probation, intermediate punishment, or parole under court supervision for failure to report as required by the terms of that individual’s probation, intermediate punishment, or parole or for any other violation of that individual’s probation, intermediate punishment, or parole.<sup>138</sup> Some other specific duties of a probation officer include:

- Make investigations, reports, and recommendations to the court.
- Receive and examine complaints and charges of delinquency or dependency of a child.
- Supervise and assist a child placed on probation or in his or her protective supervision or care by court order or other authority of law.
- Make referrals to other private or public agencies of the community if their assistance is needed.
- Take into custody and detain a child who is under his or her supervision or care as a delinquent or dependent child if the probation officer reasonably believes the child is in danger, or that he may abscond or be removed from the jurisdiction of the court, or by court order or that he or she violated the conditions of his or her probation.<sup>139</sup>

Probation officers may also search the person and property of children under their supervision as delinquent children or pursuant to a consent decree, taken into custody, and detained pursuant to law.<sup>140</sup> The law permits a probation officer to conduct a personal search of a child if there is a reasonable suspicion to believe that the child has contraband in his or her possession or there is other evidence of violations of the conditions of supervision, when a child is transported into custody, or when a child enters or leaves a detention center.<sup>141</sup> Property searches may be conducted by probation officers so long as “there is reasonable suspicion to believe that the real or other property in the possession of or under the control of the child contains contraband or other evidence of violations of the conditions of supervision.”<sup>142</sup> Property searches require prior approval from an officer’s supervisor absent exigent circumstances or unless the search is being conducted by a supervisor.<sup>143</sup> Probation officers are required to prepare a written report for every property search conducted without prior approval and said report must be filed in the child’s case record.<sup>144</sup> Personal searches do not require prior approval.<sup>145</sup>

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<sup>137</sup> *Ibid*; 61 Pa.C.S. §§ 7111-7115.

<sup>138</sup> 42 Pa.C.S. § 9913.

<sup>139</sup> 61 Pa.C.S. § 6304.

<sup>140</sup> 61 Pa.C.S. § 6304(a.1)(1)(i)-(iii).

<sup>141</sup> 61 Pa.C.S. § 6304(a.1)(4)(i)(A)-(C).

<sup>142</sup> 61 Pa.C.S. § 6304(a.1)(4)(ii).

<sup>143</sup> 61 Pa.C.S. § 6304(a.1)(4)(iii).

<sup>144</sup> 61 Pa.C.S. § 6304(a.1)(4)(iv).

<sup>145</sup> 61 Pa.C.S. § 6304(a.1)(4)(v).

The existence of reasonable suspicion to search is determined in accordance with constitutional case law, which includes the following factors that may be taken into account:

- Observations of officers.
- Information provided by others.
- Activities of the child.
- Information provided by the child.
- Experience of the probation officer with the child.
- Experience of probation officers in similar circumstances.
- Prior delinquent and supervisory history of the offender.
- Need to verify compliance with the conditions of supervision.<sup>146</sup>

It is important to note that, jurisdictionally, probation officers generally exercise their authority within the county in which they are appointed, however, probation officers may perform their legally recognized duties in another jurisdiction if authorized by a Pennsylvania court and permitted by the laws of another jurisdiction.<sup>147</sup>

### *Qualifications*

To qualify to become a parole agent in training, also known as a Parole Agent 1, a candidate must have either:

- Four years of paraprofessional experience which includes two years of paraprofessional social services, human services, corrections, or law enforcement experience; or
- Two years of paraprofessional social services, human services, corrections, or law enforcement experience, and an associate's degree; or
- A bachelor's degree in criminal justice, law enforcement, legal studies, political science, behavioral science, or a related field; or
- An equivalent combination of experience and training.

Candidates must also have their Pennsylvania Class C driver's license and have Commonwealth Law Enforcement Assistance Network (CLEAN) certification. They will then undergo a ten year background test, a medical exam, a psychological exam, and a drug test.<sup>148</sup>

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<sup>146</sup> 61 Pa.C.S. § 6304(a.1)(4)(vi)(A)-(H).

<sup>147</sup> 61 Pa.C.S. § 6304(a.1)(4)(b).

<sup>148</sup> Pennsylvania Board of Probation and Parole, "Parole Agent 1 Employment Information," <https://www.cor.pa.gov/Employment/Documents/Parole%20Agent%201%20Info.pdf>, last accessed on December 2, 2020.

Universal qualification requirements for adult probation officers were difficult to find as it appears that each county may establish its own individual qualifications. However, to become a juvenile probation officer, an individual must at minimum have a bachelor's degree, with a background of at least 18 credits in the behavioral or social sciences from an accredited college or university. Exceptions to this standard through participation in an exceptional person process are provided for by the Juvenile Court Judges' Commission. Moreover, eligibility for the exceptional person process requires an individual to have four years of related experience, and to pass a written examination, along with an oral examination administered by the Commission. Other tests of aptitude, attitude, abilities, skills or knowledge, may be required as found appropriate at the county level.<sup>149</sup>

### *Required Training*

Parole agents can work as either field agents supervising parolees or institutional agents providing parole counseling to soon-to-be released offenders. In their training at the Department of Corrections Training Academy Basic Training Program, field agents and institutional agents receive slightly differing instruction, taking 320 hours and 318 hours of courses respectively. Subjects covered in the curriculum for both include arrest and control, domestic violence, drug awareness, infectious diseases, leadership and mentoring, probation and parole law, reports and paperwork, sex offenders, suicide prevention, and substance abuse testing. Each kind of agent or officer has courses that deal specifically with the environment the agents will be working in.<sup>150</sup> After passing this training, a parole agent is a Parole Agent 1 for twelve months, at which point the agent is promoted to Parole Agent 2.<sup>151</sup>

While certain aspects of probation officer training may vary by county, state law does require firearms training for probation officers who carry a firearm. Whether probation officers carry firearms also varies by county, as some counties require their officers to carry firearms, while other counties leave the option to their probation officers. However, some counties establish special arrest teams that carry firearms as opposed to the probation officers. These teams are also responsible for assisting probation officers in performing arrests in certain circumstances.<sup>152</sup> If an individual within a county's probation department (and sometimes parole department) is going to carry a firearm, he or she must receive firearms training under the County Probation Officers' Firearm Education and Training Program (CPOFETP), which was established under the Parole Board.

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<sup>149</sup> 37 Pa. Code § 200.1002(a)(1)-(2), (b).

<sup>150</sup> Pennsylvania Department of Corrections, Pennsylvania Board of Probation and Parole, "2020 Basic Training Program Syllabus,"

<https://www.cor.pa.gov/Facilities/Documents/2020%20Basic%20Training%20Program%20Syllabus.pdf>, last accessed on December 2, 2020.

<sup>151</sup> *Supra*, n. 148.

<sup>152</sup> Phone Call on October 22, 2020 with Joseph MacLaughlin, Executive Director, County Probation Officers' Firearm Education and Training Commission.

In order to be eligible to participate in the CPOFETP or granted a waiver from the program's training requirements, an officer must at minimum:

- Be employed as a full-time county probation officer.
- Be a U.S. citizen.
- Have no conviction of an offense graded a misdemeanor of the first degree or greater or punishable by a term of imprisonment of more than two years, unless in possession of a waiver from the Bureau of Alcohol, Tobacco and Firearms of the Department of the Treasury.
- Have had the officer's fingerprints submitted by the officer's employer to the Pennsylvania State Police for the purposes of a background investigation.<sup>153</sup>

Once probation officers and parole agents are eligible to attend the CPOFETP, they will participate in a 2-week basic firearms training course. This course is composed of classroom instruction regarding "topics on officer's authority, jurisdiction and use of force, firearm safety, introduction to firearms, and shooting fundamentals."<sup>154</sup> The program consists of 24 hours of classroom work, followed by an examination. After the classroom instruction, there are 33 hours of range operations followed by a firearms qualification course. The instruction also covers weapons systems and weapons safety.<sup>155</sup>

### *Right to Carry Firearms*

As stated above, parole agents and probation officers (depending on the county they serve in) may have the option to carry firearms, but if said agents and officers do carry firearms, they must receive CPOFETP firearms training and continuing education requirements of one class annually going forward.<sup>156</sup> Of the 67 total counties within Pennsylvania, 58 counties employed approximately 1,487 officers and agents at the county level authorized to carry firearms while on duty as of 2018.<sup>157</sup> This is illustrated in MAP 2 shown below:

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<sup>153</sup> 61 Pa.C.S. § 6307(1)-(4).

<sup>154</sup> County Probation and Parole Officers' Firearms Education and Training Commission, "Annual Report Fiscal Year 2017-2018," (September 1, 2018), p. 3,

<sup>155</sup> *Ibid.*

<https://fetc.pbpp.pa.gov/FormsandPublications/AnnualReports/Documents/FY17-18%20Annual%20Report.pdf>, last accessed on October 23, 2020.

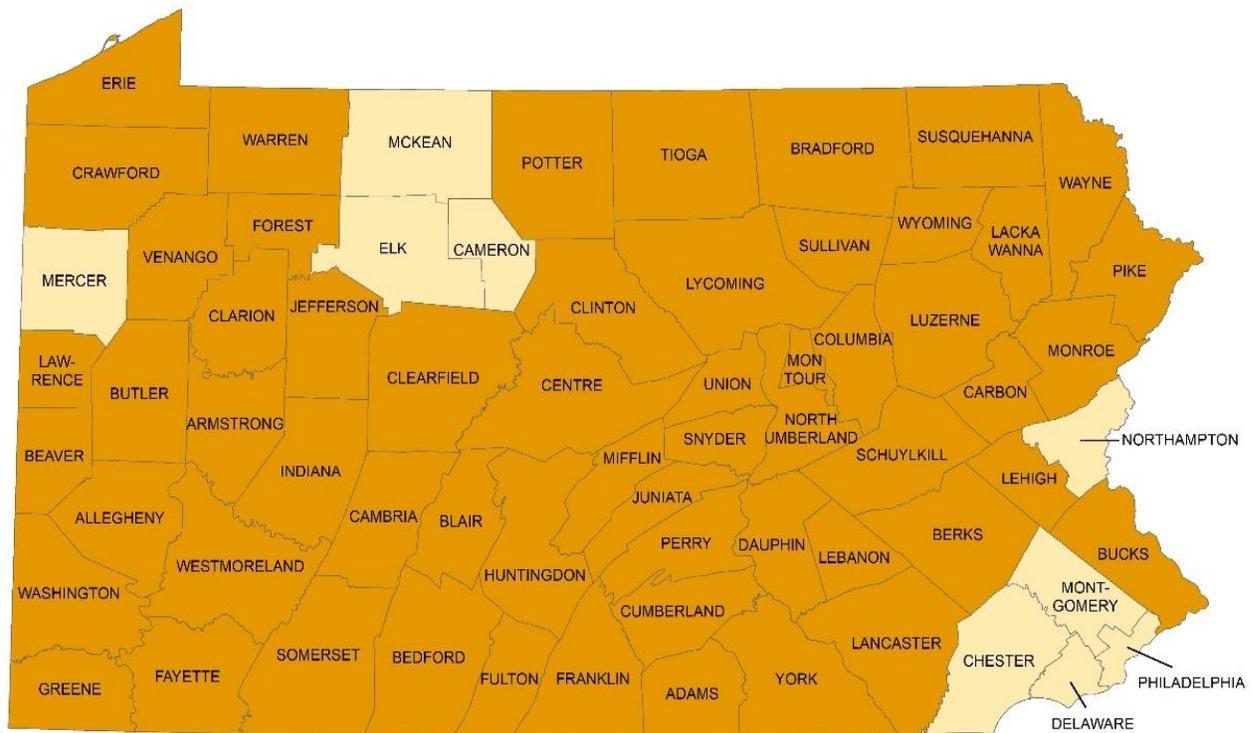
<sup>156</sup> *Ibid.*

<sup>157</sup> County Probation and Parole Officers' Firearms Education and Training Commission, "Annual Report Fiscal Year 2017-2018," (September 1, 2018), p. 3,

<https://fetc.pbpp.pa.gov/FormsandPublications/AnnualReports/Documents/FY17-18%20Annual%20Report.pdf>, last accessed on October 23, 2020.

## MAP 2

### Pennsylvania Counties with Firearm Authorization for Parole and Probation, 2018



#### Firearm Athorization



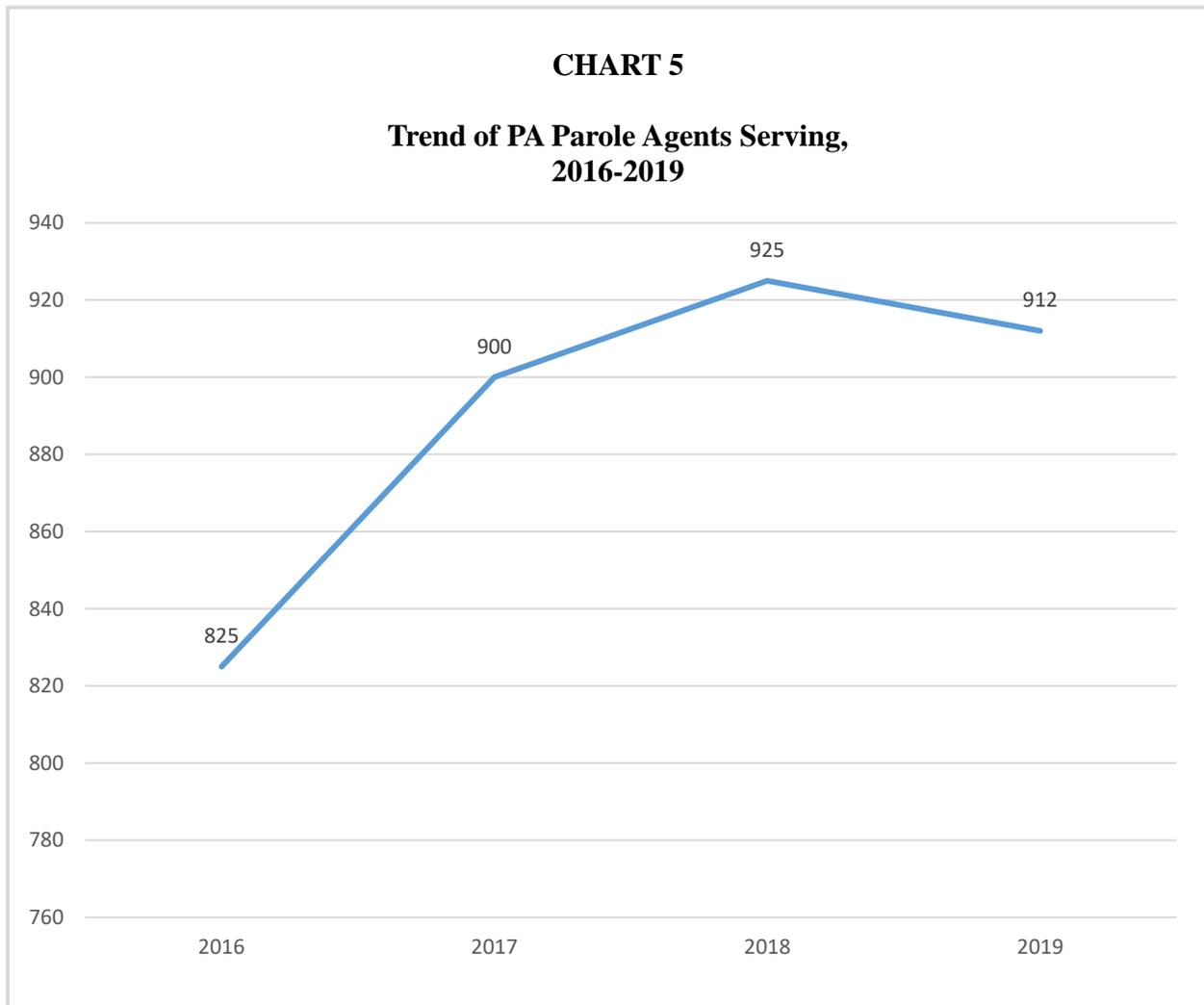
Source: County Probation and Parole Officers' Firearms Education and Training Commission, "Annual Report Fiscal Year 2017-2018," (September 1, 2018), p. 3, <https://fetc.pbpp.pa.gov/FormsandPublications/AnnualReports/Documents/FY17-18%20Annual%20Report.pdf>, last accessed on October 23, 2020.

*Number of Individuals Serving 2016 – 2019*

The following table and chart below provide the total number and trend of individual parole agents serving within the Commonwealth the past years for which data was available.

<b>TABLE 5</b>				
<b>Number of PA Parole Agents Serving, 2016-2019</b>				
<b>Certified-Trained Parole Agent Personnel</b>	<b>Year</b>			
	<b>2016</b>	<b>2017</b>	<b>2018</b>	<b>2019</b>
Total	825	900	925	912

Source: Compiled by the Commission Staff based on data from the Pennsylvania Department of Corrections.



Source: Compiled by the Commission Staff based on data from the Pennsylvania Department of Corrections.

Regarding employment and service numbers for Pennsylvania county adult probation officers, the Commission staff was able to locate 2018 totals. According to the 2018 *Pennsylvania Board of Probation and Parole County Adult Probation and Parole Annual Statistical Report*, there were approximately 1,730 adult probation officers throughout the Commonwealth as reported by the counties.<sup>158</sup>

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<sup>158</sup> Pennsylvania Board of Probation and Parole, *County Adult Probation and Parole Annual Statistical Report 2018*, p. 47, <https://www.parole.pa.gov/Information/Documents/CAPP%20Reports/2018%20CAPP%20Report.pdf>, last accessed on November 4, 2020.

### *DCNR Rangers*

#### *Background*

Pennsylvania's state parks system started with its first state park on May 30, 1893 at Valley Forge, just outside the city of Philadelphia. Over time, Pennsylvania's parks system grew substantially and modernized its facilities and also expanded its park designations. Today, the Commonwealth has over 121 state parks within its Department of Conservation and Natural Resources' (DCNR) Bureau of State Parks (BSP), which makes it one of the largest state park systems in the country.<sup>159</sup> DCNR rangers operate under the agency's BSP and Bureau of Forestry (BF), both of which operate under the umbrella of the DCNR.

In order to promote conservation and protect the environment within this growing parks system, DCNR employs park rangers to maintain the 2.2 million acres of state forest land and assist law enforcement in their duties within these areas.<sup>160</sup> It is important to note that DCNR uses the general term "ranger," since these law enforcement officers are employed to work in both parks and forests throughout the state.<sup>161</sup> Both park rangers and forest rangers in Pennsylvania generally have the same authority as will be discussed below.

#### *Legal Authority*

The legal authority prescribing the duties, scope of authority, and jurisdiction of DCNR rangers can be found primarily within the Conservation and Natural Resources Act (CNRA).<sup>162</sup>

#### *Appointing Authority*

The power to appoint park and forest rangers within the Commonwealth lies with DCNR pursuant to its authority under the CNRA.<sup>163</sup>

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<sup>159</sup> Pennsylvania Department of Conservation and Natural Resources, "History of Pennsylvania State Parks," <https://www.dcnr.pa.gov/StateParks/History/Pages/default.aspx>, last accessed on April 30, 2020.

<sup>160</sup> "DCNR Ranger Opportunities," PA DCNR, last modified September 2019, [https://cdn.uconnectlabs.com/wp-content/uploads/sites/51/2020/01/Ranger\\_Trainee\\_19.pdf](https://cdn.uconnectlabs.com/wp-content/uploads/sites/51/2020/01/Ranger_Trainee_19.pdf), last accessed on April 30, 2020,

<sup>161</sup> Pennsylvania Park Ranger Edu, "Pennsylvania Park Ranger Training and Degree Requirements," <https://www.parkrangeredu.org/pennsylvania/#main>, last accessed on April 30, 2020.

<sup>162</sup> Act of June 28, 1995 (P.L. 89, No. 18), § 101; 71 P.S. § 1340.101 *et. seq.*

<sup>163</sup> *Ibid.* § 303; 71 P.S. § 1340.303(a)(7).

### *Duties, Scope of Authority, and Jurisdiction*

Generally, Pennsylvania park and forest rangers “perform public safety work and promote recreation throughout the state parks.”<sup>164</sup> To carry out these general roles, rangers are qualified to “answer questions and explain rules and regulations to visitors, while checking the grounds, buildings and surroundings for signs of vandalism, safety hazards and cleanliness.”<sup>165</sup> In an emergency, Pennsylvania’s park rangers may be required to provide first aid or CPR and operate any number of motor vehicles, including watercraft, ATVs, and snowmobiles.<sup>166</sup>

Specific ranger duties authorized under the CNRA include the power to:

- Make warrantless arrests for violations they witness.
- Serve and execute warrants issued by the proper authorities.
- Have all the powers conferred by law upon members of the police force of cities of the first class.
- Have all the powers conferred by law upon Pennsylvania’s constables.
- To serve subpoenas issued for any examination, investigation or trial.<sup>167</sup>

DCNR rangers’ scope of authority expands to State forest lands or other areas within the Commonwealth administered by DCNR when authorized by the Secretary of Conservation and Natural Resources or his designee.<sup>168</sup>

### *Qualifications*

An individual interested in becoming a DCNR Ranger must be at least 21 years of age, have residency in Pennsylvania, and a class C motor vehicle license. They must also have taken at least 15 hours of courses related to nature and conservation, pass the Pennsylvania State Civil Service Test, and be CPR-certified in Pennsylvania. A person who meets all of these qualifications is eligible to be a DCNR Ranger Trainee. These trainees do not have previous law enforcement experience. One is eligible to become a DCNR Ranger if he or she has completed the DCNR Ranger Trainee Program or 15 additional credit hours on courses related to nature and conservation in combination with a certified police training course.<sup>169</sup>

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<sup>164</sup> *Supra*, n. 161.

<sup>165</sup> *Ibid.*

<sup>166</sup> *Ibid.*

<sup>167</sup> *Supra*, n. 160, § 303; 71 P.S. § 1340.303(a)(7)(i)-(v).

<sup>168</sup> *Ibid.* § 303; 71 P.S. § 1340.303(a)(7)(vi).

<sup>169</sup> “DCNR Ranger Opportunities,” PA DCNR, last modified September 2019, last accessed on March 23, 2020, [https://cdn.uconnectlabs.com/wp-content/uploads/sites/51/2020/01/Ranger\\_Trainee\\_19.pdf](https://cdn.uconnectlabs.com/wp-content/uploads/sites/51/2020/01/Ranger_Trainee_19.pdf)

### *Required Training*

A DCNR Ranger Trainee goes through on-the-job training and mentoring. In addition, each trainee must pass the Park Ranger Law Enforcement Academy located at Temple University. The program consists of over 700 hours of instruction over 19 full-time weeks covering topics like “visitor and resource protection, federal law and procedure, authority and jurisdiction, natural and cultural resource management, officer safety and survival skills, and physical conditioning.”<sup>170</sup> Some rangers also attend Municipal Police Officer Education and Training Commission (MPOETC) training as well. Ranger managers attend a director-approved modified law enforcement academy.<sup>171</sup>

### *Right to Carry Firearms*

DCNR rangers hold the legal right to carry firearms while carrying out their duties. This can be derived from the statutory language mentioned above that rangers shall “have all the powers conferred by law upon Pennsylvania’s constables.”<sup>172</sup> As is mentioned later in this report, constables have the right to carry a firearm, however, if they elect to carry a firearm during the performance of their duties, they are required to receive firearm certification pursuant to the provisions of 44 Pa.C.S. Ch. 71.<sup>173</sup> DCNR rangers also have the firearms rights conferred upon police officers of cities of the first class.<sup>174</sup> Ranger managers do not typically carry firearms while on duty.

### *Number of Individuals Serving*

Available employment data provided by DCNR indicated that generally in any given year there are approximately 175 armed rangers and approximately 100 ranger managers within the BSP.<sup>175</sup> Alternatively, the BF has approximately 35 to 45 forest rangers in any given year if there are no vacancies. However, these numbers fluctuate from year to year.<sup>176</sup>

## ***Wildlife Conservation Officers (Game Wardens)***

### *Background*

Wildlife Conservation Officers, commonly referred to today as Game Wardens, are the Pennsylvania Game Commission’s field officers and most visible employees. The Pennsylvania

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<sup>170</sup> “Park Ranger Law Enforcement Academy,” Temple University, last accessed on March 23, 2020, <https://universitycollege.temple.edu/academics/park-ranger-law-enforcement-academy>.

<sup>171</sup> E-mail Correspondence on September 18, 2020 with Kip Hursh, Ranger Operations Specialist for Pennsylvania Bureau of State Parks.

<sup>172</sup> *Supra*, n. 162, § 303; 71 P.S. § 1340.303(a)(7)(iii).

<sup>173</sup> 44 Pa.C.S. § 7148.

<sup>174</sup> *Supra*, n. 162, § 303; 71 P.S. § 1340.303(a)(7)(iv).

<sup>175</sup> *Supra*, n. 171.

<sup>176</sup> E-mail Correspondence on September 18, 2020 with Todd Miller, Natural Resource Program Specialist, DCNR Bureau of Forestry.

Board of Game Commissioners, which was renamed the Pennsylvania Game Commission in 1937, was formed on June 25, 1895 under Governor Hastings.<sup>177</sup> The Game Commission's creation was prompted largely due to the perception that Pennsylvania's once lush wildlife, deer in particular, was starting to disappear. The concept of the Game Commission was also pushed by the Pennsylvania Sportsmen's Association. To restore wildlife, the Game Commission pressed for restrictive hunting laws, in order to safeguard the Commonwealth's remaining wildlife and provide it with a better opportunity to recover and eventually thrive. This underlying intent was ultimately bolstered by the hiring of law enforcement officers to enforce the law's provisions.<sup>178</sup>

Around 1900, the Game Commission estimated that only about 500 whitetail deer remained in the state. In 1906, the commission and its conservation officers began stocking deer. The commission also began stocking elk and beaver, and began to aggressively protect and manage these species.<sup>179</sup>

In 1913, the Game Commission created the first official hunting license. The price to purchase said hunting license was \$1. In 1919, the Game Commission was authorized for the first time to buy lands to create public hunting grounds, which today are known as state game lands, and game refuges. The following year, the first acreage to create a state game lands area was then purchased.<sup>180</sup>

By 1919 the Game Commission had 20 State Game Land reserves, however, most animal populations were still alarmingly low. As such, Governor William C. Sproul signed a law authorizing the state purchase of land specifically for game preserves, and later that year, the Commission purchased 6,288 acres. Over the next five years, the Commission acquired another 86,000 acres and managed a game reserve system that spanned an additional 100,000 acres. These "miniature Yellowstone parks" of State Game Lands became the heart of Pennsylvania's wildlife-management programs."<sup>181</sup>

In 1936 the Game Commission established a school designed to train its conservation officers. It was the first training school of its kind established in the U.S. for conservation officers. Today the Ross Leffer School of Conservation in Harrisburg serves as the training school for all wildlife conservation officers and their deputies. Officers are trained at this school to not only enforce laws, but also to play a significant role in education, wildlife research, and hunter/trapper training.<sup>182</sup>

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<sup>177</sup> Wildlife for Everyone Foundation, "History of Wildlife Conservation in Pennsylvania," <https://www.wildlifeforeveryone.org/history/>.

<sup>178</sup> Joe Kosack, *The Pennsylvania Game Commission, 1895-1995: 100 Years of Wildlife Conservation* (Harrisburg, PA: Pennsylvania Game Commission), 1995, accessed from [www.explorepa.com](http://www.explorepa.com).

<sup>179</sup> *Ibid.*

<sup>180</sup> *Ibid.*

<sup>181</sup> *Ibid.*

<sup>182</sup> *Ibid.*

In 1971, the Game Commission meetings became open to the public for attendance and comment.<sup>183</sup> In 1985, Pennsylvania licensed more than one million hunters, the third-highest total in the nation at the time and by 2000, the Pennsylvania Game Commission managed more than 1.3 million acres.<sup>184</sup>

Today, the Game Commission has grown to 700 full-time employees and thousands of part-time employees and volunteers.<sup>185</sup> A significant number of the Commission's employees include wildlife conservation officers, which are the Commission's field officers and most visible employees, generally tasked with enforcing Pennsylvania's laws designed to protect its wildlife.<sup>186</sup> The duty of the Game Commission is "to protect, propagate, manage and preserve the game or wildlife of this Commonwealth and to enforce, by proper actions and proceedings, the laws of [the] Commonwealth."<sup>187</sup>

In order to fulfill its duties, the commission has the authority to, among other things, fix seasons, daily shooting or taking hours, and any modification thereof, and daily, season and possession limits for any species of game or wildlife; remove protection, declare an open season or increase, reduce or close a season; increase or reduce bag limits or possession limits; define geographic limitations or restrictions; fix the type and number of devices which may be used to take game or wildlife; limit the number of hunters or furtakers in any designated area and prescribe lawful methods of hunting or taking furbearers.<sup>188</sup>

The ownership, jurisdiction over, and control of game or wildlife is expressly vested in the commission as an independent agency of the Commonwealth in its sovereign capacity to be controlled, regulated, and disposed of in accordance with state law.<sup>189</sup>

### *Legal Authority*

Like various other law enforcement officers actively serving the Commonwealth today, legal authority establishing wildlife conservation officers and their duties and scope of authority can be found primarily within Pennsylvania statutory law with legal challenges to these statutes litigated before the courts and resolved through the courts' final decisions. Specifically, details within the law under Title 34, Chapter 9 of the Pennsylvania Consolidated Statutes defining the role and obligations of wildlife conservation officers will be discussed in greater detail below.

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<sup>183</sup> Marcus Schneck, "Deer hunting seasons in Pennsylvania 145-years-old: A brief history of deer hunting laws and regulations in Pennsylvania," *PennLive Patriot News*, (Jan. 5, 2019), [https://www.pennlive.com/pa-sportsman/2014/11/deer\\_hunting\\_seasons\\_in\\_pennsy.html](https://www.pennlive.com/pa-sportsman/2014/11/deer_hunting_seasons_in_pennsy.html), last accessed on April 4, 2020.

<sup>184</sup> *Ibid.*

<sup>185</sup> Pennsylvania Game Commission, "About Us," <https://www.pgc.pa.gov/InformationResources/AboutUs/Pages/default.aspx>.

<sup>186</sup> Pennsylvania Game Commission, "Becoming a Wildlife Conservation Officer," <https://www.pgc.pa.gov/InformationResources/CareersandVolunteers/Documents/Becoming%20a%20Wildlife%20Conservation%20Officer.pdf>.

<sup>187</sup> 34 Pa.C.S. § 322(a).

<sup>188</sup> 34 Pa.C.S. § 322(c)(1)-(6).

<sup>189</sup> 34 Pa.C.S. § 103(a).

### *Appointing Authority*

Pennsylvania statute mandates that the Game Commission appoint a director of the commission. A director may not be any member of the commission nor anyone who has served as a member of the commission within one year after service. Once the director is appointed, he or she serves at the pleasure of the commission.<sup>190</sup> In carrying out his or her duties, the director is tasked with selecting competent persons as Game Commission officers, assigned to field, administrative or office duties, and other competent persons for other duties as may be necessary.<sup>191</sup>

### *Deputy Game Commission Officers*

Pursuant to statute, the Game Commission may also appoint deputy Game Commission officers as necessary. Deputies, with certain exceptions, possess the same rights and powers given by law to Game Commission or wildlife conservation officers and are subject to all requirements and regulations, either of the law or of the commission, controlling the action of said officers.<sup>192</sup>

### *Duties, Scope of Authority, and Jurisdiction*

Wildlife conservation officers are charged with enforcing game and wildlife laws and have the authority to arrest those who violate these laws. In carrying out this duty, officers are authorized to:

- Enforce all state game or wildlife laws and arrest any violator thereof.
- Enter land or water outside buildings.
- Stop transportation to conduct searches.
- Purchase and resell wildlife.
- Inspect hunting equipment (licenses, permits, firearms, ammunition, and other implements).
- Secure and execute warrants.
- Search any person or means of transportation.
- Seize property.
- Carry firearms.
- Issue warnings and citations.

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<sup>190</sup> 34 Pa.C.S. § 302(a).

<sup>191</sup> 34 Pa.C.S. § 303(a).

<sup>192</sup> 34 Pa.C.S. § 304(a).

- Operate Commonwealth law enforcement vehicles.
- Serve subpoenas.
- Demand and secure identification from any person who is the subject of an investigation or investigative detention.<sup>193</sup>

### *Qualifications*

An individual who wants to become a wildlife conservation officer must be a Pennsylvania resident over the age of 21 with a class C driver's license, have had a hunting license for two years, and said individual must have completed 60 college credits, or two years as a deputy wildlife conservation officer, or four years as an active duty military service member. They must also pass a written and oral exam and a physical exam.<sup>194</sup>

### *Required Training*

Once an individual is accepted into the program, they become a cadet at the Ross Leffler School of Conservation. This 50-week, 1,400-hour training program educates cadets in subjects such as:

- Wildlife Management Principles.
- Law Enforcement Principles and Methods.
- Wildlife Laws and Regulations.
- Land Management Practices.
- Public Relations and Conservation Education.
- Firearms, Defense and Control Tactics.
- Use of Force Agency Administration.<sup>195</sup>

Additionally, the cadets spend time paired with wildlife conservation officers in the field. Applicants for a wildlife conservation position must be in excellent physical condition, have knowledge of hunting and outdoor activities, and be able to interact positively with people from all different backgrounds.

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<sup>193</sup> 34 Pa.C.S. § 901(a)(1)-(19).

<sup>194</sup> "Becoming a Wildlife Conservation Officer,"

<https://www.pgc.pa.gov/InformationResources/CareersandVolunteers/Documents/Becoming%20a%20Wildlife%20Conservation%20Officer.pdf>

<sup>195</sup> *Ibid.*

The curriculum is made up of more than 140 subjects taught by nearly 200 instructors, who are often agency employees. Cadets are paid bi-weekly and receive the same employee benefits given to all Commonwealth employees. In addition, lodging and meals are provided at the training school at no charge. On a weekly basis, the cadets report to the school Sunday evening and remain there until they are released Friday afternoon.<sup>196</sup>

In addition to classes, cadets are required to perform maintenance and cleaning details and pass daily inspections. Regarding classroom performance, cadets are required to maintain at least an 80 percent average of all examinations, while certain critical subjects require 100 percent proficiency. All candidates are also required to pass basic strength, fitness, and agility tests early in the selection process.<sup>197</sup>

*Right to Carry Firearms*

Like many other law enforcement officers within the Commonwealth, wildlife conservation officers have the legal authority to “carry firearms or other weapons, concealed or otherwise, in the performance of their duties.”<sup>198</sup>

*Number of Individuals Serving 2015 – 2019*

The following table and chart below provide the approximate numbers and trends of individual wildlife conservation officers and their deputies serving within the Commonwealth in the last five years for which data was available.

<b>TABLE 6</b>					
<b>Number of PA Wildlife Conservation Officers and Deputy Wildlife Conservation Officers Serving, 2015-2019</b>					
<b>Position</b>	<b>Year</b>				
	<b>2015</b>	<b>2016</b>	<b>2017</b>	<b>2018</b>	<b>2019</b>
Wildlife Conservation Officers	195	127	113	108	116
Deputy Wildlife Conservation Officers	400+	365+	340	317	284

Source: Compiled by the Commission Staff based on data provided by Pennsylvania Game Commission “2019 Annual Report,” p. 17, <https://www.pgc.pa.gov/InformationResources/MediaReportsSurveys/Documents/2019%20PGC%20Annual%20Legislative%20Report.pdf>, last accessed on November 9, 2020.

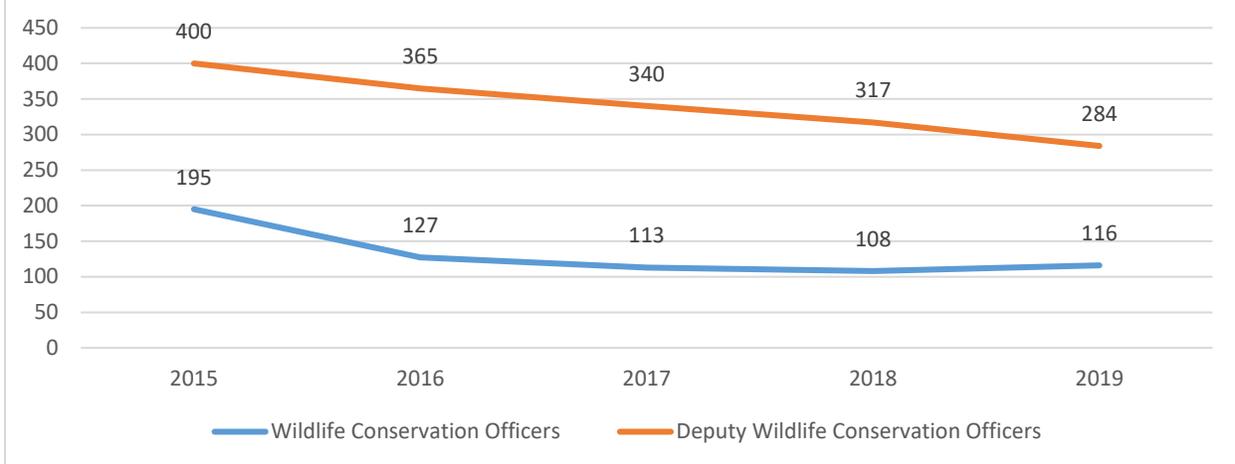
<sup>196</sup> *Ibid.*

<sup>197</sup> *Ibid.*

<sup>198</sup> 34 Pa.C.S. § 901(a)(4).

**CHART 6**

**Trend of PA Wildlife Conservation Officers and Deputy Wildlife Conservation Officers Serving, 2015-2019**



Source: Compiled by the Commission Staff based on data provided by Pennsylvania Game Commission “2019 Annual Report,” p. 17,

<https://www.pgc.pa.gov/InformationResources/MediaReportsSurveys/Documents/2019%20PGC%20Annual%20Legislative%20Report.pdf>, last accessed on November 9, 2020.

***Waterways Conservation Officers***

***Background***

Waterways conservation officers, originally called waterways patrolmen until 1984, are the primary enforcement officer under the Pennsylvania Fish and Boat Commission tasked with enforcing fishing, boating, and environmental laws and regulations. Waterways conservation officers were first granted limited police powers in 1980. In 1984, the first female waterways conservation officer was hired.<sup>199</sup>

The Pennsylvania Fish and Boat Commission (PFBC) was established by legislation signed into law by Governor Andrew Curtin in 1866 which named James Worrall as Pennsylvania’s first Commissioner of Fisheries. However, it wasn’t until 1991 that the PFBC obtained its current name as previous name variations to the PFBC included the Board of Fishery Commissioners in 1925 and the Pennsylvania Fish Commission in 1949.<sup>200</sup>

<sup>199</sup> Pennsylvania Fish & Boat Commission, “PFBC Chronology,” <https://www.fishandboat.com/AboutUs/Pages/PFBCChronology.aspx>.

<sup>200</sup> *Ibid.*

Currently, the mission of the PFBC is “to protect, conserve, and enhance the Commonwealth’s aquatic resources and provide fishing and boating opportunities.” The PFBC operates today as an independent administrative commission and consists of 10 competent citizens of the Commonwealth who are appointed by the Governor by and with the advice and consent of a majority of the members elected to the Senate. Members of the PFBC must meet certain requirements as prescribed by statute. For instance, two members of the commission must serve at-large and be experienced in both boating and water safety education and be a registered boat owner within the Commonwealth. These two boatmen members represent the various geographical sections and boating interests of Pennsylvania. The remaining eight members need to be persons well-versed on the subject of conservation, restoration, fish and fishing and boats, and boating and are appointed, insofar as practicable, on a bipartisan basis and from various geographic districts within Pennsylvania.<sup>201</sup>

Members of the PFBC hold office for terms of four years each and may continue to hold office for a period of time not to exceed six months or until a successor is appointed and qualified, whichever occurs first. A member who serves three consecutive terms is not be eligible for reappointment to the commission. Members receive no compensation for their services and are only reimbursed for their travel expenses. The PFBC has a central office located in the Harrisburg area and is required to hold meetings in its central office in January and July and at such other times and places the commission designates for the conducting of business.<sup>202</sup>

#### *Legal Authority*

Legal authority establishing the jurisdiction and authority of waterways conservation officers is found primarily in Title 30 (relating to Fish) of Pennsylvania’s Consolidated Statutes.

#### *Appointing Authority*

The executive director of the PFBC, with PFBC approval, has the authority to appoint and fix the compensation of waterways conservation officers and other employees as the PFBC deems necessary in order to enforce the provisions of all the Commonwealth’s fishing, boating, and environmental laws, and perform the functions and work of the commission itself.<sup>203</sup>

#### *Deputy Waterway Conservation Officers*

The executive director, with PFBC approval, may also appoint deputy waterways conservation officers. Newly appointed deputy waterways conservation officers, excluding reappointments, are required to attend certain training programs required by the commission, which must include at a minimum:

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<sup>201</sup> 30 Pa.C.S. § 301(a)-(b).

<sup>202</sup> 30 Pa.C.S. § 301(c), (e).

<sup>203</sup> 30 Pa.C.S. § 304(a).

- (1) Successful completion of training and obtaining a certificate of qualification under the Lethal Weapons Training Act,<sup>204</sup> or equivalent training as determined by the executive director, prior to appointment.
- (2) Successful completion of not less than 250 hours of law enforcement classroom and on-the-job training.

However, all deputy waterways conservation officers, including reappointments, are required by law to attend all annual in-service training required by the PFBC.<sup>205</sup>

Deputy waterways conservation officers are volunteers and as such, they generally do not receive any salary, compensation, or expenses, unless authorized by the executive director. If a salary is authorized by the executive director, deputies are required to receive “compensation and/or reasonable expenses in accordance with a Statewide pay scale and standards as established by the Executive Board.”<sup>206</sup> When carrying out their official duties, deputy waterways conservation officers are authorized to operate Commonwealth vehicles and watercraft.<sup>207</sup>

Deputy waterways conservation officers are generally only permitted to exercise the powers and duties of their appointments until December 31 of each year, unless their commissions are sooner revoked, suspended, or withdrawn. The powers and duties of deputy waterways conservation officers are subject to limitations prescribed by the executive director, as approved by the PFBC. The executive director may authorize deputy waterways conservation officers to exercise the same powers and perform the same duties as waterways conservation officers subject to certain exceptions.<sup>208</sup>

#### *Duties, Scope of Authority, and Jurisdiction*

The scope of a waterways conservation officer’s authority includes managing boat launches, waterways, fish hatcheries, and other properties used for recreational fishing and boating. Waterways conservation officers also regulate the accessibility through dams on major waterways via fish ladders. Pursuant to statutory law, waterways conservation officers are specifically empowered to conduct the following duties:

- Enforce laws that relate to fish and watercraft.
- Serve subpoenas and execute search warrants.
- Carry a firearm.
- Inspect boats or vehicles with probable cause.

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<sup>204</sup> Act of October 10, 1974 (P.L. 705, No. 235), known as the Lethal Weapons Training Act.

<sup>205</sup> 30 Pa.C.S. § 305(a).

<sup>206</sup> 30 Pa.C.S. § 305(b).

<sup>207</sup> *Ibid.*

<sup>208</sup> 30 Pa.C.S. § 305(c).

- Seize fishing equipment being used illegally.
- Seize fish caught or sold in violation of the law.
- Purchase fish in order to secure evidence.
- Enter land or water in pursuit of an offender.
- Arrest a person in violation of any part of Title 18 (the Crimes Code) or suspected of a misdemeanor and felony if necessary.
- Request identification from an apprehended person.
- Use Commonwealth vehicles for the purpose of law enforcement.
- Issue verbal warnings instead of citations or arrest if appropriate.<sup>209</sup>

As mentioned previously, conservation officers are assigned to various districts throughout Pennsylvania, “where—in addition to fish and boat law enforcement—they conduct boating and fishing schools, fish stocking, public relations work, and investigate water pollution violations.”<sup>210</sup> As such, their jurisdiction of authority depends largely on which district they are assigned.

### *Qualifications*

An applicant interested in becoming a waterways conservation officer must be a U.S. citizen and a Pennsylvania resident above the age of 21. They must also have a Pennsylvania driver’s license and meet the qualifications of the Municipal Police Officers’ Education and Training Commission (MPOETC). Applicants will also undergo a rigorous background check and medical and physical tests. In addition, applicants must be able to swim continuously for 10 minutes or 250 yards.<sup>211</sup>

### *Required Training*

The training of a waterways conservation officer consists of 20 weeks of law enforcement training as provided in the MPOETC Act.<sup>212</sup> MPOETC creates the curriculum, which in 2020 includes classes on law enforcement in general, criminal procedures, juveniles, response to special needs, crash investigation, patrol, criminal investigation, physical and emotional health, firearms training, and emergency response training.<sup>213</sup> Recruits must also pass a physical test that includes a 300 meter run, a bench press, sit ups, and a 1.5 mile run at the beginning of training. The standards for each of these aspects of the test vary by age and sex. Trainees will have to take the another test

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<sup>209</sup> 30 Pa.C.S. § 901(a)(12).

<sup>210</sup> 30 Pa.C.S. § 901(a).

<sup>211</sup> PA Fish & Boat Commission, “Careers with the PFBC: Waterways Conservation Officer (WCO),” <https://www.fishandboat.com/AboutUs/Careers/Pages/LawEnforcementCareers.aspx>, last accessed April 4, 2020.

<sup>212</sup> 53 Pa.C.S. § 2161 *et seq.*

<sup>213</sup> 37 Pa. Code § 203.1 *et seq.*

at the end of the training course that includes a 1 minute sit up, 300 meter run, 1 minute push up, and 1.5 mile run. This round also has standards that differ between groups of different ages and sexes, but the difficulty levels are increased from the entrance test.<sup>214</sup>

After this training, the PFBC also provides 32 weeks of training at the H.R. Stackhouse School of Fisheries Conservation and Watercraft Safety Education in Bellefonte, Pennsylvania. The first 20 weeks of the training is spent in a classroom learning the specifics of fish and boat law and pertinent information about fishing, fisheries, and conservation. Trainees then go through seven weeks of training traveling in different areas around Pennsylvania with experienced waterways conservation officers known as Field Training Officers. Lastly, trainees spend five weeks on the job in a specific region being supervised and evaluated.<sup>215</sup>

*Right to Carry Firearms*

As mentioned above, waterways conservation officers are expressly authorized to “carry firearms or other weapons in the performance of their duties” pursuant to statute.<sup>216</sup>

*Number of Individuals Serving 2016 – 2020*

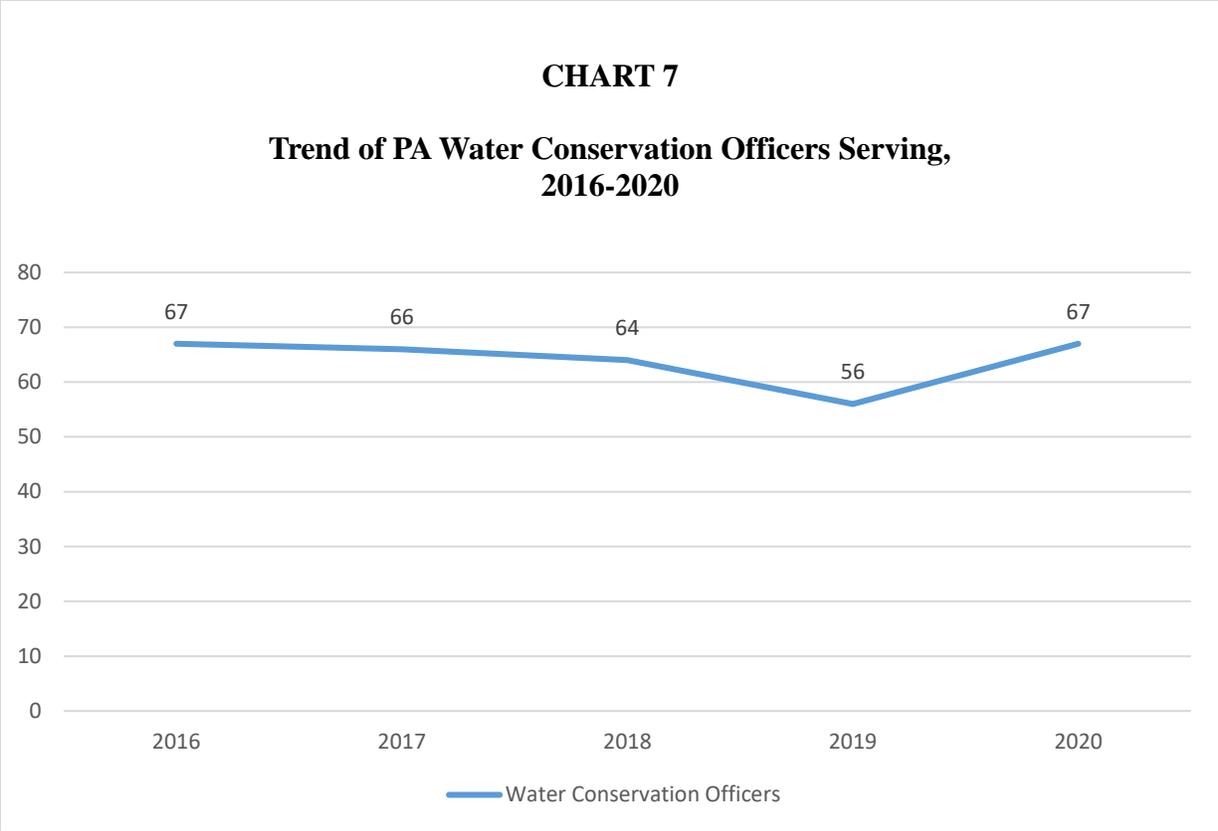
The following table and chart shown below provide data regarding the numbers and trend of individual water conservation officers serving within the Commonwealth for the last five years for which data was available.

<b>TABLE 7</b>					
<b>Number of PA Water Conservation Officers Serving, 2016-2020</b>					
<b>Water Conservation Officers</b>	<b>Year</b>				
	<b>2016</b>	<b>2017</b>	<b>2018</b>	<b>2019</b>	<b>2020</b>
Total	67	66	64	56	67
Source: Compiled by the Commission based on data provided by Maxine N. Johnson, Director of Human Resources, Pennsylvania Fish and Boat Commission.					

<sup>214</sup>*Ibid*;  
<https://mpoetc.psp.pa.gov/training/Documents/Revised%20Training%20Documents/Basic%20Police%20Officer%20Training/Physical%20Fitness/MPOETC%20Fitness%20Charts.pdf>.

<sup>215</sup> *Supra*, n. 211.

<sup>216</sup> 30 Pa.C.S. § 901(a)(4).



Source: Compiled by the Commission based on data provided by Maxine N. Johnson, Director of Human Resources, Pennsylvania Fish & Boat Commission.

***Forest Fire Wardens***

*Background*

Pennsylvania’s forest fire wardens have been providing the Commonwealth forest fire protection for over 100 years. Forest fire wardens are appointed primarily “to detect, extinguish, and investigate wildfires” and “actively promote fire prevention in their community.”<sup>217</sup>

The role of forest fire warden was officially established by the Pennsylvania Department of Forestry when George Wirt, Pennsylvania’s first technically trained forester, was given authority to expand the state’s fire protection program in 1909 pursuant to the Act of May 13, 1909 (P.L. 781, No. 601). This law authorized the Commissioner of Forestry to appoint forest fire

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<sup>217</sup> Pennsylvania Department of Conservation and Natural Resources, “Pennsylvania Forest Fire Wardens,” <https://www.dcnr.pa.gov/Communities/Wildfire/PennsylvaniaForestFireWardens/Pages/default.aspx>, last accessed on April 26, 2020.

wardens and gave the department funding from the state. The Act of May 11, 1911 (P.L. 271, No. 173), established penalties for fire-setting on public and private land.<sup>218</sup>

In 1915, the Forest Fire Protection Law (FFPL) was enacted. This law established the Bureau of Forest Protection within the Department of Forestry and the office of chief forest fire warden. George Wirt was the first to serve in this role.<sup>219</sup> During World War I, the forestry program in Pennsylvania improved and forest fires became the primary concern of the department. At that time, there were between 1,000 and 2,000 fires reported each year. Despite having about 1,500 fire wardens, the program struggled due to a “lack of observation towers, inadequate telephone communication for reporting fires, and insufficient roads and trails for access into remote areas.”<sup>220</sup> By 1922, fire control had 2,600 employees, 50 observation towers, increased telephone communication, and 500 miles of new road and trails.<sup>221</sup>

In 1995, the Pennsylvania Department of Conservation and Natural Resources (DCNR) was established as an administrative department within the executive branch. The department is headed by the Secretary of Conservation and Natural Resources, who is appointed by the Governor, subject to the approval of a majority of the members elected to the Senate.<sup>222</sup> This department has a number of powers and duties related to Pennsylvania forests, including, but not limited to the authority to purchase and hold as State forests unseated, vacant or unappropriated lands and the authority to hold, manage, control, protect, maintain, utilize, develop, and regulate the occupancy and use of all lands, acquired, owned, leased, and maintained as State forests or for reforestation purposes.

### *Legal Authority*

The authority and responsibility of forest fire wardens is established by statute and their specific work is guided by policy and practice. General authority and duties of the chief forest fire warden and his counterparts were initially established in Article I of the FFPL. These duties were reiterated in section 302 of the 1995 CNRA.<sup>223</sup>

### *Appointing Authority*

The DCNR has the authority to appoint a chief forest fire warden and any such district forest fire wardens required for the prevention, control, and extinction of forest fires.<sup>224</sup> The need for the appointment of a local forest fire warden is determined by the district forest fire warden. When an individual is identified as a candidate, they are provided with an overview of the local district protection program and are assisted in acquiring the training and experience necessary prior

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<sup>218</sup> Henry Clepper, “Forest Conservation in Pennsylvania: The Pioneer Period, from Rothrock to Pinchot,” *Pennsylvania History: A Journal of Mid-Atlantic Studies* 48, no. 1 (January 1981): 41-50, <https://www.jstor.org/stable/27772708>; Act of May 13, 1909 (P.L. 781, No. 601); Act of May 11, 1911 (P.L. 271, No. 173).

<sup>219</sup> Act of June 3, 1915 (P.L. 797, No. 353).

<sup>220</sup> *Supra*, n. 218.

<sup>221</sup> *Ibid.*

<sup>222</sup> Act of June 28, 1995, (P.L. 89, No. 18), § 301; 71 P.S. § 1340.301.

<sup>223</sup> *Ibid.* at § 302; 71 P.S. § 1340.302(a).

<sup>224</sup> *Ibid.* at § 302; 71 P.S. § 1340.302(a)(7).

to their appointment.<sup>225</sup> The chief fire warden also has the authority to appoint substitute wardens.<sup>226</sup>

### *Duties, Scope of Authority, and Jurisdiction*

There are three types of forest fire wardens: local, district, and chief. There is one chief forest fire warden who is responsible for fire protection across the entire state and acts in a mostly supervisory role. The chief forest fire warden also educates communities about fire safety and prevention.<sup>227</sup> In addition, the chief fire warden puts into effect a system of fire towers, observation stations, and a system of telephone lines designed to cover the regions subject to forest fires; and for such purposes he or she may purchase the necessary material and equipment to build and maintain such towers, stations, and lines. In maintaining systems of telephone lines he or she is authorized to buy or lease any existing lines. The chief fire warden also has the authority to enter into agreements, with the consent of the Commissioner of Forestry, with persons, firms, corporations, or associations, for forest fire prevention or control.<sup>228</sup>

The CNRA additionally bestowed upon the chief forest fire warden the authority to appoint *ex officio* fire wardens who would not be compensated for their service but would have the same authority as a local fire warden. The chief forest fire warden has a duty to report data on fire occurrence and most management decisions to the secretary of the DCNR. He or she can appoint forest fire wardens as patrolmen during times of increased fire risk and enter agreements that concern fire control. The chief also shapes the initiative to continue increasing the department's resources to fight fire. He or she can also declare a property that is a special fire hazard a public nuisance.<sup>229</sup>

District forest fire wardens provide fire education and serve as representatives of the chief forest fire warden. They supervise and review the work of local forest fire wardens, who carry out the responsibility of responding to, extinguishing, and investigating fires. They also report fires that have been extinguished, and meet annually with the other forest fire wardens in their district.<sup>230</sup> There are currently 20 different forest districts within the Commonwealth as shown in MAP 3 below.

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<sup>225</sup> *Supra*, n. 217.

<sup>226</sup> Act of May 13, 1909 (P.L. 781, No. 601), § 14; 71 P.S. § 1312.

<sup>227</sup> Department of Conservation and Natural Resources, *The Forest Fire Warden News*, (Harrisburg 2017), [http://www.docs.dcnr.pa.gov/cs/groups/public/documents/document/dcnr\\_20033279.pdf](http://www.docs.dcnr.pa.gov/cs/groups/public/documents/document/dcnr_20033279.pdf).

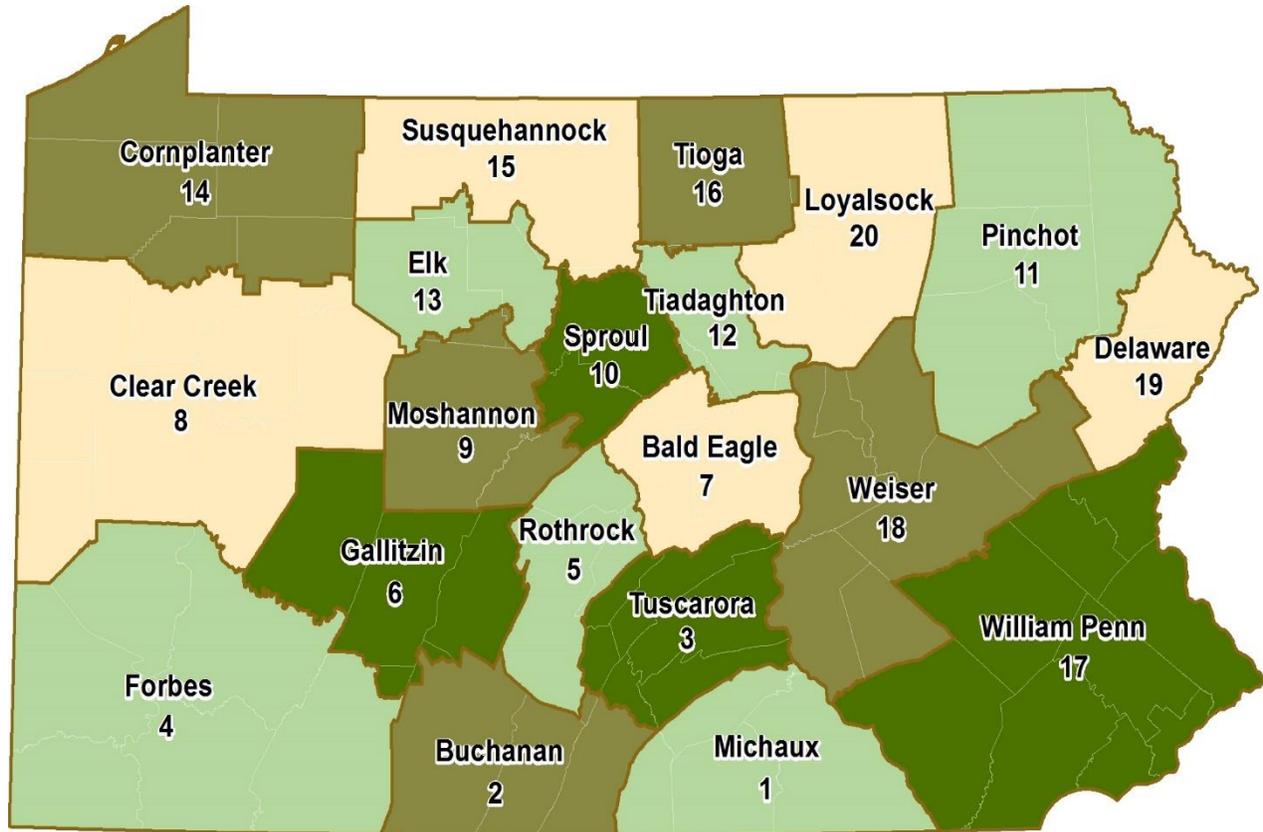
<sup>228</sup> *Supra*, n. 226, § 14; 71 P.S. § 1312.

<sup>229</sup> *Supra*, n. 222, § 302; 71 P.S. § 1340.302.

<sup>230</sup> *Ibid.*

## MAP 3

### Pennsylvania State Forest District Index



Source: Pennsylvania Department of Conservation and Natural Resources, "State Forest District Index," <https://www.dcnr.pa.gov/StateForests/FindAForest/Pages/default.aspx>.

A forest fire warden at any of the aforementioned levels is empowered to employ someone to assist in putting out a fire, administer an oath to question someone about a fire, enter any property to fulfill the duties established by statute, arrest on sight a person found in the act of committing an offense in violation of the forestry laws in Pennsylvania, and fulfill these duties both within his or her district and in others.<sup>231</sup>

The duties of forest fire wardens are not solely limited to their geographical jurisdiction, such as, to the boroughs, townships, or counties for or within which they are appointed. For example, forest fire wardens are legally permitted to enter adjacent or other boroughs, townships, or counties, and exercise their authority and perform their duties therein. However, when a forest fire warden enters a territory outside his or her respective jurisdiction for the purpose of extinguishing fire, the local warden, if present, shall be in command and direct the work of the various fire-fighting crews.<sup>232</sup>

<sup>231</sup> *Supra*, n. 219, art. VI, § 604; 71 P.S. § 1321.

<sup>232</sup> *Supra*, n. 226, § 12; 71 P.S. § 1323.

*Qualifications and Required Training*

Local forest fire wardens are appointed by a district forest fire warden when the need for one arises. Once a candidate has been identified, the department assists in providing the candidate with the required training and experience before he or she fills the role.<sup>233</sup>

*Right to Carry a Firearm*

There does not appear to be any statutory language expressly authorizing forest fire wardens to carry firearms while on duty. Consequently, forest fire wardens do not carry firearms on duty.

*Number of Individuals Serving 2017-2020*

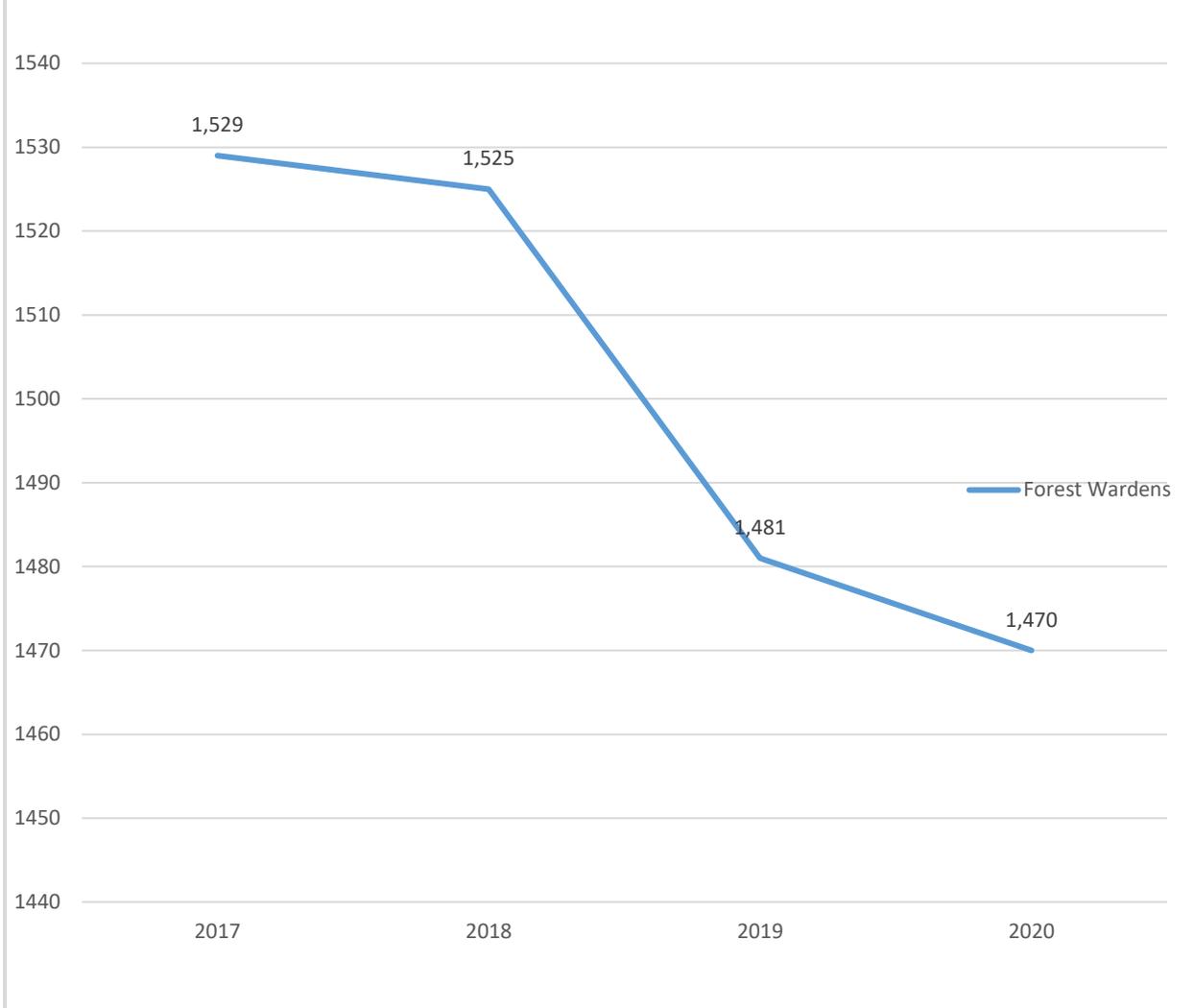
The following table and chart shown below provide data regarding the numbers and trend of individual forest fire wardens serving within the Commonwealth for the last few years for which data was available.

<b>TABLE 8</b>				
<b>Number of PA Forest Fire Wardens Serving, 2017-2020</b>				
<b>Certified-Trained Personnel</b>	<b>Year</b>			
	<b>2017</b>	<b>2018</b>	<b>2019</b>	<b>2020</b>
Total	1,529	1,525	1,481	1,470
Source: Compiled by the Commission Staff based on data from Michael Kern, Chief of Division of Forest Fire Protection, DCNR.				

<sup>233</sup> "Pennsylvania Forest Fire Wardens," DCNR, accessed April 15, 2020, <https://www.dcnr.pa.gov/Communities/Wildfire/PennsylvaniaForestFireWardens/Pages/default.aspx>.

### CHART 8

#### Trend of PA Forest Fire Wardens Serving, 2017-2020



Source: Compiled by the Commission Staff based on data from Michael Kern, Chief of Division of Forest Fire Protection, DCNR.



## EDUCATIONAL INSTITUTIONS

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### *University Campus Police – Pennsylvania State System of Higher Education*

#### *Background*

The term “university campus police” in this report refers to police officers who are employed in the 14 state-owned Pennsylvania State System of Higher Education (PASSHE) universities, as well as the Commonwealth’s four “state-related” and eight “state-aided” colleges or universities. The term also refers to campus police officers employed within Pennsylvania’s private universities. This particular subsection will cover the campus police for state-owned universities within PASSHE, while the following subsections will discuss the other aforementioned college or university campus police.

The 14 state-owned PASSHE universities include the following:

- Bloomsburg University
- California University
- Cheyney University
- Clarion University
- East Stroudsburg University
- Edinboro University
- Indiana University
- Kutztown University
- Lock Haven University
- Mansfield University
- Millersville University
- Shippensburg University
- Slippery Rock University
- West Chester University

These universities are spread throughout Pennsylvania, see MAP 4 shown below.

#### MAP 4

#### Pennsylvania's State System of Higher Education Universities



Source: Pennsylvania's State System of Higher Education, "Our Universities," <https://www.passhe.edu/university/Pages/Our-Universities.aspx>, last accessed on October 28, 2020.

Though PASSHE universities are similar in function to state-related colleges and universities, it is important to distinguish the two because each type is distinctively identified under Pennsylvania law, including when it comes to campus police. The Pennsylvania Superior Court acknowledged this distinction in the 2013 case of *Commonwealth v. Durso*.<sup>234</sup> Still, the statutory distinctions between these types of universities, along with their byzantine amendments and statutory references are complicated, and in an effort to provide some clarity, this report will discuss them and their evolution in greater detail below.

<sup>234</sup> *Commonwealth v. Durso*, 86 A.3d 865 (Pa. Super. 2013).

## *Legal Authority*

Initially, campus police for state-owned universities of PASSHE retained their legal authority from section 2416 of the Administrative Code of 1929 (Administrative Code), which was enacted in 1965 and required campus police to complete a course of training, including crisis intervention training and riot control as approved by the Pennsylvania Department of Education. However, this provision has been repealed as obsolete and superseded by later amendments to the Administrative Code and the Public School Code of 1949 (Public School Code).

## *Duties, Scope of Authority, and Jurisdiction*

University campus police within the PASSHE universities have the authority to exercise the following primary duties:

- Enforce good order on the grounds and in the buildings of the college or university.
- Protect the grounds and buildings of the college or university.
- Exclude all disorderly persons from the grounds and buildings of the college or university.
- Adopt whatever means may be necessary for the performance of their duties.<sup>235</sup>

In addition, university campus police have the authority to “exercise the same powers as are now or may hereafter be exercised under authority of law or ordinance by the police of the municipalities wherein the college or university is located.”<sup>236</sup> Further, university campus police and municipalities may enter into an agreement with the municipality wherein the college or university is located “to exercise concurrently those powers and to perform other duties pursuant to a cooperative police service agreement in accordance with 42 Pa.C.S., section 8953 (relating to Statewide municipal police jurisdiction).<sup>237</sup>

University campus police in general have the authority to prevent crime, investigate criminal acts, apprehend, arrest, and charge criminal offenders, and issue summary citations for acts committed on the grounds and in the buildings of the college or university, and carry the offender before the proper alderman, justice of the peace, magistrate, or bail commissioner to pursue charges.<sup>238</sup> These officers also have the authority “to order off the grounds and out of the buildings of the institution all trespassers and persons under the influence of alcohol or controlled substances and, if necessary, remove them by force and, in case of resistance, carry them before a district justice.”<sup>239</sup> Moreover, officers may also arrest any person who damages, mutilates, or destroys the property of a state-owned university or one who commits any other offense, including threats or acts of terrorism, on the grounds and within any university buildings.<sup>240</sup>

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<sup>235</sup> Act of March 10, 1949 (P.L. 30, No. 14), art. XX-A, § 2019-A; 24 P.S. § 20-2019-A(a)(1)-(4).

<sup>236</sup> *Ibid*; 24 P.S. § 20-2019-A(a)(5).

<sup>237</sup> *Ibid*; 24 P.S. § 20-2019-A(a)(5).

<sup>238</sup> *Ibid*; 24 P.S. § 20-2019-A(a)(6).

<sup>239</sup> *Ibid*; 24 P.S. § 20-2019-A(a)(8).

<sup>240</sup> *Ibid*.

Except when exercising jurisdictional police powers pursuant to 42 Pa.C.S. Ch. 89 Subch. D, PASSHE university campus police authority is constrained to exercise its powers and perform its duties only on the grounds of the institution.<sup>241</sup>

*Qualifications and Training*

As mentioned previously, section 2416 of the Administrative Code has been repealed as obsolete and superseded by its own subsequent amendments as well as the Public School Code. In addition, it was replaced with a reference to the municipal police education and training provisions found within Title 53 of Pennsylvania’s Consolidated Statutes. Specifically, section 2416.1 of the Administrative Code was enacted in 1997 and provided that only law enforcement personnel at state-aided and state-related colleges and universities were required to complete a course of training in 53 Pa.C.S. Ch. 21, Subch. D (MPOETC training). Originally enacted in 1974, the Municipal Police Education and Training Law specifically exempted campus police at PASSHE universities from the provisions of the act. However, in 2003, the provisions of the Public School Code governing PASSHE were amended to require campus police at PASSHE colleges and universities to comply with MPOETC training. In 2020, the only colleges or universities that were still governed by section 2416 of the Administrative Code and were not covered by MPOETC were community colleges. For specific MPOETC training requirements *see Municipal Police*.

*Right to Carry Firearms*

Since these campus police officers have authority to exercise the same powers as are exercised under authority of law or ordinance by the police of the municipalities wherein the college or university is located (those powers include carrying firearms), campus police for state-owned PASSHE universities may also carry firearms while on duty.

*Number of Individuals Serving 2016 – 2020*

The following chart provides a breakdown of police officers serving within each university within the PASSHE for each year between 2016 and 2020.

<b>TABLE 9</b>					
<b>Number of Police Officers Serving at each PASSHE University, 2016-2020</b>					
<b>Universities</b>	<b>Year</b>				
	<b>2016</b>	<b>2017</b>	<b>2018</b>	<b>2019</b>	<b>2020</b>
Bloomsburg University	14	14	15	15	15
California University	17	17	18	17	16
Cheyney University	11	14	12	10	10
Clarion University	12	11	11	11	11

<sup>241</sup> *Ibid*; 24 P.S. § 20-2019-A(a)(6).

**TABLE 9****Number of Police Officers Serving at each PASSHE University,  
2016-2020**

Universities	Year				
	2016	2017	2018	2019	2020
East Stroudsburg University	16	16	16	16	16
Edinboro University	14	14	13	13	13
Indiana University	22	20	20	19	21
Kutztown University	17	17	17	16	15
Lock Haven University	10	11	9	11	11
Mansfield University	9	9	9	9	9
Millersville University	17	18	18	13	14
Shippensburg University	16	16	16	13	14
Slippery Rock University	15	16	14	14	12
West Chester University	26	26	26	26	26
<b>Total</b>	<b>216</b>	<b>219</b>	<b>214</b>	<b>203</b>	<b>203</b>

Sources: Compiled by the Commission Staff based on data from Jennifer Hoover, Director of Government Relations, Pennsylvania State System of Higher Education.

***University Campus Police – State-Related and State-Aided Colleges and Universities****Background*

In addition to the Pennsylvania State System of Higher Education universities, the Commonwealth is also home to what are referred to as “state-related” and “state-aided” colleges and universities. Pennsylvania’s state-related colleges and universities include the following:

- Lincoln University
- Pennsylvania State University
- Temple University
- University of Pittsburgh

Each of the above post-secondary educational institutions has the legal authority to establish police departments to patrol their campuses and enforce the law on said campuses.

According to the Pennsylvania Department of Education, the Commonwealth is also home to eight private, state-aided institutions of higher education.<sup>242</sup> Section 9 of the Pennsylvania Fair Educational Opportunities Act lists Pennsylvania’s state-aided institutions to include:

- Drexel University
- Johnson College
- Lake Erie College of Osteopathic Medicine
- Philadelphia College of Osteopathic Medicine
- Salus University
- Thomas Jefferson University
- University of Pennsylvania
- The University of the Arts<sup>243</sup>

It is worth noting that one private, state-aided university on the list above, the University of Pennsylvania in Philadelphia, maintains its own 121 officer police department – making it the largest private police department in the Commonwealth, with the second largest number of full-time sworn police officers amongst all private universities nationwide, and the third largest number nationally for all universities (both private and public).<sup>244</sup>

### *Legal Authority*

The definition for “state-related institutions” can be found in the Pennsylvania Public School Code of 1949 (School Code). Generally speaking, these state-related universities have their own enabling statutes. For example, the Pennsylvania State University was established by the Act of February 22, 1855 (P.L. 46, No. 50), § 1.<sup>245</sup> In this statute, the Pennsylvania State University was referred to initially as the Agricultural School of the Pennsylvania State College. The legal authority for campus police officers hired to serve on the campuses of state-related colleges and universities such as the Pennsylvania State University were found primarily within section 2416 of the Administrative Code of 1929 (Administrative Code). Again, this section appears to have been superseded by section 2416.1 of the Administrative Code.

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<sup>242</sup> Pennsylvania Department of Education, “Types of Schools,” <https://www.education.pa.gov/Schools/TypesofSchools/Pages/default.aspx>, last accessed October 28, 2020.

<sup>243</sup> Act of July 17, 1961 (P.L. 776, No. 341), § 9, known as the Fair Education Opportunity Act; 24 P.S. § 5009(a). (The statutory list was updated by the Pennsylvania Department of Education’s Database to show the list above).

<sup>244</sup> University of Pennsylvania, Division of Public Safety, “Penn Police Department,” <https://www.publicsafety.upenn.edu/about/uppd/>, last accessed on October 20, 2020.

<sup>245</sup> Act of February 22, 1855 (P.L. 46, No. 50), § 1; 24 P.S. § 2531 *et seq.*

Likewise, the legal authority for campus police officers for state-aided colleges and universities is also found within section 2416.1 of the Administrative Code.

### *Duties, Scope of Authority, and Jurisdiction*

University campus police within state-related and state-aided universities and colleges have the authority to exercise the following primary duties:

- Enforce good order on the grounds and in the buildings of the college or university.
- Protect the grounds and buildings of the college or university.
- Exclude all disorderly persons from the grounds and buildings of the college or university.
- Adopt whatever means may be necessary for the performance of their duties.<sup>246</sup>

The above primary duties are virtually analogous to those bestowed upon PASSHE university campus police.

University campus police for state-related and state-aided colleges and universities have the authority to “exercise the same powers as are now or may hereafter be exercised under authority of law or ordinance by the police of the municipalities wherein the college or university is located.”<sup>247</sup> Further, university campus police and municipalities may enter into an agreement with the municipality wherein the college or university is located “to exercise concurrently those powers and to perform other duties pursuant to a cooperative police service agreement in accordance with 42 Pa.C.S., section 8953 (relating to Statewide municipal police jurisdiction).<sup>248</sup>

University campus police for colleges and universities in general have the authority to prevent crime, investigate criminal acts, apprehend, arrest and charge criminal offenders and issue summary citations for acts committed on the grounds and in the buildings of the college or university and carry the offender before the proper alderman, justice of the peace, magistrate or bail commissioner to pursue charges.<sup>249</sup>

Except when acting in accordance with the above-mentioned municipal police jurisdiction, university campus police authority for state-related or state-aided colleges or universities is generally constrained to “the grounds or within 500 yards of the grounds of the college or university.”<sup>250</sup> Historically, university campus police for state-related or state-aided colleges or universities could also exercise their powers and perform their duties outside of the premises of

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<sup>246</sup> Act of April 9, 1929 (P.L. 177, No. 175), § 2416.1, known as the Administrative Code of 1929; 71 P.S. § 646.1(a)(1)-(4).

<sup>247</sup> *Ibid* § 2416.1; 71 P.S. § 646.1(a)(5).

<sup>248</sup> *Ibid*.

<sup>249</sup> *Ibid* § 2416.1; 71 P.S. § 646.1(a)(6).

<sup>250</sup> *Ibid* § 2416.1; 71 P.S. § 646.1(a)(6).

the State colleges and universities, State-aided or -related colleges and universities, and community colleges by, or for which they are employed only and after they:

have completed a course of training including crisis intervention training and riot control as approved by the Department of Education except, that Campus Police employed by State owned colleges and universities located in any municipalities, other than cities of the first class or second class, are authorized, in emergency situations occurring within the municipality, upon the request of the mayor or other executive authority and under the direction of the local law enforcement authorities, to exercise those powers and perform those duties conferred pursuant to this section within the municipality for the limited purpose of aiding local authorities in emergency situations.<sup>251</sup>

*Qualifications and Training*

University campus police for state-related or state-aided universities and colleges are subject to the qualifications and training requirements of the Municipal Police Officers Education and Training Commission (MPOETC). For specific details on MPOETC training requirements, see *Municipal Police*.

*Right to Carry Firearms*

Since these campus police officers have authority to exercise the same powers as are exercised under authority of law or ordinance by the police of the municipalities wherein the college or university is located (those powers include carrying firearms), campus police for state-related universities and colleges may also carry firearms while on duty so long as they have completed the proper MPOETC firearms training.

*Number of Individuals Serving 2016 – 2020*

The following tables provide the number of campus police officers (for those which information was available) serving at state-related university and college campuses, and state-aided university or college campuses for the past five years.

<b>TABLE 10</b>					
<b>Number of Police Officers Serving at each State-Related University Campus, 2016-2020</b>					
<b>State-Related Universities</b>	<b>Year</b>				
	<b>2016</b>	<b>2017</b>	<b>2018</b>	<b>2019</b>	<b>2020</b>
Lincoln University	31	29	23	18	20

<sup>251</sup> *Ibid* § 2416.1; 71 P.S. § 646(h).

<b>TABLE 10</b>					
<b>Number of Police Officers Serving at each State-Related University Campus, 2016-2020</b>					
<b>State-Related Universities</b>	<b>Year</b>				
	<b>2016</b>	<b>2017</b>	<b>2018</b>	<b>2019</b>	<b>2020</b>
The Pennsylvania State University (includes satellite campuses)	103	131	146	162	168
Temple University	--	--	--	--	--
University of Pittsburgh	--	--	--	--	--
<b>Total</b>	--	--	--	--	--

Sources: Compiled by the Commission Staff based on data from Jim Connor, Compliance Department, Lincoln University Police Department; Michelle Irwin, Administrative Support Coordinator, University Police and Public Safety, Penn State University. Commission staff was unable to obtain information from Temple University and the University of Pittsburgh.

<b>TABLE 11</b>					
<b>Number of Police Officers Serving at each State-Aided University Campus, 2016-2020</b>					
<b>State-Aided Universities</b>	<b>Year</b>				
	<b>2016</b>	<b>2017</b>	<b>2018</b>	<b>2019</b>	<b>2020</b>
Drexel University	32	38	47	44	41
Johnson College	--	--	--	--	--
Lake Erie College of Osteopathic Medicine*	--	--	--	--	--
Philadelphia College of Osteopathic Medicine*	--	--	--	--	--
Salus University	--	--	--	--	--
Thomas Jefferson University	--	--	--	--	--
University of Pennsylvania	--	--	--	--	121
The University of the Arts**	--	--	--	--	--
<b>Total</b>	--	--	--	--	--

Source: Compiled by Commission Staff based on data from Eileen W. Behr, Vice President and Chief of Police of the Drexel University Department of Public Safety.  
 \*Staffed by private police or security guards  
 \*\*Utilize local police.  
 Information is missing for many of the colleges and universities listed above due to either the institution using private security, local police coverage, or from Commission staff being unable to obtain information directly from the institution.

## *Private College and University (nonprofit corporation) Campus Police*

### *Background*

In addition to state-owned and state-related colleges and universities, Pennsylvania is also home to a large number of nonprofit private colleges and universities. Like those mentioned above, these private institutions have the legal authority to appoint police officers to patrol their campuses, and many do maintain their own police departments. The legal requirements for a private college or university to appoint police officers differs from that of state-owned, state-related, and state-aided colleges and universities.

### *Legal Authority*

The authority for private colleges and universities, operating as nonprofit corporations, to appoint police officers is found within 22 Pa.C.S. § 501. This section also prescribes their powers, as well as their scope of jurisdiction.

### *Appointing Authority*

Section 501(a) of Title 22 provides that any nonprofit corporation as defined in 15 Pa.C.S. Pt. II Subpt. C (relating to nonprofit corporations) that maintains:

a cemetery or any buildings or grounds open to the public, or organized for the prevention of cruelty to children or aged persons, or one or more such purposes, may apply to the court of common pleas of the county of the registered office of the corporation for the appointment of such persons as the corporation may designate to act as policemen for the corporation.<sup>252</sup>

Upon receiving the application for a policeman, the court may by order appoint a policeman or as many of them it determines to be necessary.<sup>253</sup>

### *Duties, Scope of Authority, and Jurisdiction*

Private police, properly appointed by the court, “severally possess and exercise all the powers of a police officer in [the] Commonwealth, in and upon, and in the immediate and adjacent vicinity of, the property of the nonprofit college or university.”<sup>254</sup> Such police are paid directly by the college or university. If a private college or university no longer needs the services for any one of its policemen, “it must file notice to that effect, under its corporate seal, in the office of each recorder of deeds where the court decree and order of appointment of such officer was

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<sup>252</sup> 22 Pa.C.S. § 501(a).

<sup>253</sup> *Ibid.*

<sup>254</sup> *Ibid.*

recorded.”<sup>255</sup> Once this occurs, the powers for the police officer for which the filing was intended for will terminate.<sup>256</sup>

It is worth reiterating that these private police who serve nonprofit corporations (other than private colleges and universities), such as a corporation organized to prevent cruelty to children or aged persons, or one or more of such purposes, have the legal authority to “exercise all the powers of a police officer in any county in which they may be directed by the corporation to act” and are also “authorized to arrest persons for the commission of any offense of cruelty to children or aged persons.”<sup>257</sup>

### *Qualifications and Required Training*

Every private policeman who is appointed by the court must, before carrying out any of his or her police-related duties, take and subscribe the oath required by Article XI of the state constitution. Both the oath, along with the decree and order from the court approving the appointment are required by law to be recorded by the recorder of deeds of each county in which it is intended the policeman in question will have authority to act.<sup>258</sup> Every private police officer so appointed must also wear a metallic shield with the words “special officer” and the name of the college or university for which he or she was appointed.<sup>259</sup>

Private police are subject to the training requirements of the Lethal Weapons Training Act (LWTA).<sup>260</sup> For details on the LWTA requirements, *see Private Detectives, Investigators, Security Guards, and Patrolmen.*

### *Right to Carry Firearms*

Private college or university campus police have the legal right to carry firearms while carrying out their duties, however, this right only takes effect after the completion of LWTA firearms training. For details on the LWTA requirements, *see Private Detectives, Investigators, Security Guards, and Patrolmen.*

### *Number of Individuals Serving*

There did not appear to be any formal database collecting the number of individual private colleges and universities that maintain their own campus police, nor was there any data collection on the cumulative number of private campus police officers throughout the Commonwealth. Consequently, the Commission was unable to obtain numerical totals for the number of private college or university campus police officers serving within Pennsylvania.

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<sup>255</sup> 22 Pa.C.S. § 501(c).

<sup>256</sup> *Ibid.*

<sup>257</sup> *Ibid.*

<sup>258</sup> 22 Pa.C.S. § 501(b).

<sup>259</sup> 22 Pa.C.S. § 501(c).

<sup>260</sup> Act of October 10, 1974 (P.L. 705, No. 235), § 1; 22 P.S. § 41 *et seq.*

## *School Police Officers*

### *Background*

The authority and procedures necessary to employ police officers in Pennsylvania schools was not formally provided for under state law until the enactment of the Pennsylvania Public School Code of 1949 (Public School Code). The law has since been amended numerous times including most recently in November of 2019. Police officers who are appointed to patrol within schools are legally identified as school police officers.

The term “school police officer” is defined as any of the following: “(1) [a] law enforcement officer employed by a school entity or nonpublic school whose responsibilities, including work hours, are established by the school entity or nonpublic school [or] (2) an independent contractor or an individual provided through a third-party vendor who has been appointed...” under the Public School Code. An “independent contractor” under the Public School Code is defined as:

[a]n individual, including a retired Federal agent or retired State, municipal or military police officer or retired sheriff or deputy sheriff, whose responsibilities, including work hours, are established in a written contract with a school entity or a nonpublic school for the purpose of performing school security services.<sup>261</sup>

School police officers are defined separately in the Code from school resource officers and school security guards. The primary difference between school police officers and the other two security personnel appears to be that school police officers are court-approved, and as such, have the authority to “issue summary citations or to detain individuals who are in school buildings, on school buses and on school grounds in the respective school entities or nonpublic schools, that is, until local law enforcement is notified.”<sup>262</sup> This report, and in particular this section, will focus on school police officers.

While it is the “Public” School Code that provides legal parameters to hire school police officers, the scope of the law’s requirements are not confined to only public schools. Further, both public and nonpublic school entities alike have appointed school police officers in compliance with the Public School Code since its inception. The Public School Code defines “school entity” (the operative legal term of art used in the statute) as a “school district, intermediate unit, area career and technical school, charter school or private residential rehabilitative institution.”<sup>263</sup>

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<sup>261</sup> Act of March 10, 1949 (P.L. 30, No. 14), art. XIII-C, §1301-C; Act of November 27, 2019 (P.L. 662, No. 91), § 2; 24 P.S. § 13-1301-C.

<sup>262</sup> *Ibid.* § 1306(c); 24 P.S. § 13-1306-C(a)(3).

<sup>263</sup> *Ibid.* § 1301-C; 24 P.S. § 13-1301-C.

### *Legal Authority*

As mentioned above, the legal authority behind the appointing of school police officers is found within the Public School Code and all of its subsequent amendments.

### *Appointing Authority*

The official appointing authority for school police officers is a judge of the court of common pleas of the county within which the school entity or nonpublic school entity is situated. While the judge is the formal official who approves the appointment of a school police officer, it is the school entity's board of directors or the administration of the nonpublic school who actually designates the officer to serve within the school facilities and property.<sup>264</sup>

The appointing judge generally reviews the application and appoints one or more officers if need be and will enter the appointment into the court record. If requested by the school, the judge may empower the appointed officer or officers with arresting authority, the authority to issue citations, and detain students until local police arrive. Schools that employ a school police officer are required to report to the Department of Education each year the identity of the officer, the municipality the school is located in, and the date of and type of training the officer has received.<sup>265</sup>

After being appointed and before being authorized to perform the duties of the job, the officer must take the oath required by the Seventh amendment of the Pennsylvania Constitution in front of a justice of the peace, alderman, or prothonotary, and it must be recorded in the official record that the oath was taken.<sup>266</sup>

### *Duties, Scope of Authority, and Jurisdiction*

Appointed school police officers are empowered to enforce good order on school property, in school buildings, and on school buses. Officers can also be empowered by the court with the same authority of the law enforcement officers located in their home municipalities. The officer must wear a badge that reads "School Police" and keep it in plain view at all times.<sup>267</sup> If the officer is authorized by court (as opposed to a non-court-appointed security guard or school resource officer as noted above), he or she may "issue summary citations or to detain individuals who are in school buildings, on school buses and on school grounds in the respective school entities or nonpublic schools until local law enforcement is notified."<sup>268</sup>

Schools can enter into cooperative service agreements with municipal police that provide the municipal police officers concurrent jurisdiction on school property. If the school is in a municipality lacking a municipal police force, it can utilize an adjacent municipality's officers. A school choosing to do this must give at least a 30-day written notice to the municipality where the

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<sup>264</sup> *Ibid.* § 1302-C(a)-(b); 24 P.S. § 13-1302-C(a)-(b).

<sup>265</sup> *Ibid.* § 1302-C; 24 P.S. § 13-1303-C.

<sup>266</sup> *Ibid.* § 1304-C; 24 P.S. § 13-1304-C.

<sup>267</sup> *Ibid.* § 1307-C; 24 P.S. § 13-1307-C.

<sup>268</sup> *Ibid.* § 1306-C; 24 P.S. § 13-1306-C.

school is located, and this information must be forwarded to the commanding officer of the PSP that has jurisdiction in the municipality.<sup>269</sup>

### *Qualifications and Required Training*

When an officer has been authorized to carry a firearm, he must complete the firearm training required by MPOETC or have been a PSP Trooper that left employment in good standing.<sup>270</sup> Due to a recent amendment to Article XII-C of the Public School Code, all school security workers (including school police officers) must also take the National Association of School Resource Officers (NASRO) Basic School Resource Officer Course as well as a yearly in-service training that will be approved by MPOETC.<sup>271</sup>

Independent contractors that are retired federal, state, or local police officers can also be utilized by schools, and they must be compensated at an hourly rate and complete yearly training as required by MPOETC standards.<sup>272</sup>

### *Right to Carry Firearms*

If authorized by the court, a school police officer, who is a law enforcement officer employed by a school entity or nonpublic school whose responsibilities, including work hours, are established by the school entity or nonpublic school, “may exercise the same powers as exercised under authority of law or ordinance by the police of the municipality in which the school is located.”<sup>273</sup> Generally speaking, these powers include the right to carry firearms while exercising his or her duty within the school entity.<sup>274</sup> However, the Public School Code specifically provides that “the judge shall, at the request of the school entity or nonpublic school, grant the school police officer the authority to carry a firearm if the school police officer satisfies the requirements under section 1305-C” regarding school police officer training.<sup>275</sup>

### *Number of Individuals Serving*

As mentioned previously, the law appears to require the Pennsylvania Department of Education to collect the number of individual school police officers throughout the Commonwealth. Consequently, Commission staff was unable to obtain that reported information on school police officers from the Department.

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<sup>269</sup> *Ibid.* § 1307-C; 24 P.S. § 13-1309-C.

<sup>270</sup> *Ibid.*

<sup>271</sup> *Ibid.*

<sup>272</sup> *Ibid.*

<sup>273</sup> *Ibid.* § 1306-C; 24 P.S. § 13-1306-C(b).

<sup>274</sup> *Ibid.*

<sup>275</sup> *Ibid.* § 1302-C; 24 P.S. § 13-1302-C(b)(3).

# TRANSPORTATION ENFORCEMENT

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## *Transit Police*

### *Background*

As the population in its metropolitan areas grew, the Pennsylvania General Assembly enacted the Metropolitan Transportation Authorities Act (MTAA) to authorize the creation of “a separate body corporate and politic in each metropolitan area, to be known as the transportation authority of that metropolitan area, extending to and including all of the territory in the metropolitan area.”<sup>276</sup> It was from this law that the Southeastern Pennsylvania Transportation Authority (SEPTA) was established in 1963. With respect to metropolitan transportation authorities within the Commonwealth, this report will focus on SEPTA in particular because SEPTA maintains and operates its own transit police department.

SEPTA is a state authority that funds and operates public transportation in the City of Philadelphia and its surrounding counties of Bucks, Chester, Delaware, and Montgomery. Today, SEPTA is the sixth largest transit agency in the U.S. based on the weekly ridership of its networks of subway systems, buses, trolleys, and commuter rail lines. SEPTA’s formation in Pennsylvania is an “example of the regional authorities formed to stem declines in urban public transportation nationwide after World War II.”<sup>277</sup> In the 1950s, there was an undeniable need for a “regional approach” to provide public transportation between Philadelphia and its suburbs. This need developed, in part, because the region’s largest provider of public transportation, the Philadelphia Transportation Company (PTC) declined financially, along with the two largest commuter rail providers (the Pennsylvania and Reading railroads). These declines threatened to reduce service and increase fare rates.<sup>278</sup> SEPTA was created to help fill this regional transportation need.

Since its inception, SEPTA recognized the need for a security force in the 1960s after a string of attacks and rapes on the subway system necessitated a regular patrol by Philadelphia K-9 Police Officers. In 1969, after a second uptick in crime on the subway, the Philadelphia Police Transit Unit was created, and crime rates reached a lull once again. In 1978, there was yet another rise in crime that involved attacks on SEPTA employees. Because of this, SEPTA contracted with the Philadelphia Police Department to employ newly graduated rookies for \$1.2 million a year. This “SEPTA Strike Force,” as it became known, continued for two years with the number of officers employed never exceeding 65.<sup>279</sup>

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<sup>276</sup> 74 Pa.C.S. § 1711(a).

<sup>277</sup> John Hepp, “SEPTA,” *The Encyclopedia of Greater Philadelphia*, <https://philadelphiaencyclopedia.org/archive/septa/>, last accessed on June 22, 2020.

<sup>278</sup> *Ibid.*

<sup>279</sup> SEPTA, “Transit Police History,” last accessed June 22, 2020, <http://www.septa.com/police/dept-history.html>.

## SEPTA Railyard in 1981 at the 69<sup>th</sup> Street Terminal in Upper Darby



Source: George D. McDowell, Philadelphia Evening Bulletin Collection, Temple University Libraries

However, said force was unable to maintain order on the subway and was under the direction of the police department and not SEPTA transportation officials. The original brigade of officers eventually ended up being laid off due to budgetary cuts. Consequently, the layoff prompted another increase in transit crime. Over time, public hearings were held in an effort to find policing solutions for SEPTA's transit systems and quash the growing crime activity.<sup>280</sup>

Despite various ideas presented during the public hearings, SEPTA saw the need for a police unit that was able to be strategically deployed by the transportation authority itself. As such, SEPTA established the SEPTA Transit Police Department, of which the official first class consisted of 55 officers who received Municipal Police Officers' Education and Training Commission (MPOETC) training and began patrolling in 1981. According to SEPTA, the commissioning of its own transit police department resulted in a 47 percent decline in all transit-related crimes by 1982.<sup>281</sup>

Currently, SEPTA's transit police patrol in the five previously mentioned counties that SEPTA services. The police department consists of more than 260 officers and is one of the largest police departments in the state. The department's more than 260 officers are divided among a two-region patrol unit, three different special units (consisting of Anti-Crime Teams, Bike Patrol Unit, and Ceremonial Honor Guard Team), Special Operations Units (consisting of Canine Unit, Special Operations Response Team, Tactical Unit, Criminal Investigations Unit, and Training and

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<sup>280</sup> *Ibid.*

<sup>281</sup> *Ibid.*

Recruitment Unit), and Quality Control (consisting of Internal Affairs, Communications/Technical Unit, and Administrative Staff).<sup>282</sup>

### *Legal Authority*

Legal authority for a metropolitan transportation authority like SEPTA to hire police officers can be found within section 1741(a)(7) of the MTAA which broadly provides that such authorities “shall have and may exercise all powers necessary or convenient for the carrying out of the purposes of [the Act]” which include the authority to “appoint officers, agents, employees and servants and to prescribe their duties and fix their compensation.”<sup>283</sup> Given the history of criminal activity occurring along SEPTA rail lines and its growing need to secure and protect its property, employees, and consumers, SEPTA has demonstrated the necessity required to hire officers with full arrest authority and police powers.

### *Duties, Scope of Authority, and Jurisdiction*

The MTAA does not appear to provide any express statutory language regarding transit police officers or their duties, scope of authority, or jurisdiction – the MTAA appears to leave some of that discretion up to the metropolitan transportation authority itself. According to SEPTA’s Transit Police Department’s own mission statement, its transit officers patrol for the purpose of enhancing the quality of life on the transit system through law enforcement efforts that reduce the fear and incidence of crime. Specifically, a transit police officer for SEPTA is “responsible for ensuring the safety of SEPTA customers, staff, and property throughout the areas it serves.”<sup>284</sup> In carrying out their duties, officers are required to enforce all local, state, and federal laws on and around SEPTA’s transit system. These officers also have jurisdiction in service areas in New Jersey and Delaware.<sup>285</sup> Below is a current regional rail and rail transit map to illustrate the size and scope of SEPTA’s railways.

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<sup>282</sup> SEPTA, “Transit Police Department Organization,” <https://www.septa.org/police/about-us.html>, last accessed on June 23, 2020.

<sup>283</sup> 74 Pa.C.S. § 1741(a)(7).

<sup>284</sup> *Ibid.*

<sup>285</sup> *Ibid.*

# MAP 5: SEPTA Regional Rail & Rail Transit Map, 2020



Source: SEPTA Maps System, <http://www.septa.org/maps/system/>.

*Qualifications and Required Training*

Applicants desiring to become a SEPTA Transit Police Officer must be a U.S. citizen of at least 21 years of age, and must have obtained a GED or high school diploma. Applicants must also possess a valid driver’s license. Moreover, SEPTA requires applicants to take a written examination before being employed, and then pass a background check, psychological examination, polygraph test, drug test, and medical examination. All candidates being considered must complete MPOETC training.<sup>286</sup> For more information on MPOETC training requirements, *see Municipal Police*. Officers then receive 40 hours of in-service training and are expected to take an additional 40 hours of training each year to remain certified.<sup>287</sup>

*Right to Carry Firearms*

SEPTA transit police officers have the legal right to carry firearms, however, as mentioned above, SEPTA requires that officers attend and complete the standardized MPOETC police academy and firearms training along with its required annual in-service training.<sup>288</sup>

*Number of Individuals Serving 2016 – 2020*

The following table and chart shown below provide data regarding the numbers and trend of individual SEPTA police officers serving within the Commonwealth for each of the last five years beginning with 2016.

<b>TABLE 12</b>					
<b>Number of PA SEPTA Police Officers Serving, 2016-2020</b>					
<b>SEPTA Police Officers</b>	<b>Year</b>				
	<b>2016</b>	<b>2017</b>	<b>2018</b>	<b>2019</b>	<b>2020</b>
Total	240	243	246	226	232

Source: Compiled by the Commission from data provided by Chief Thomas J. Nestel III and Inspector Jahlee Hatchett, SEPTA.

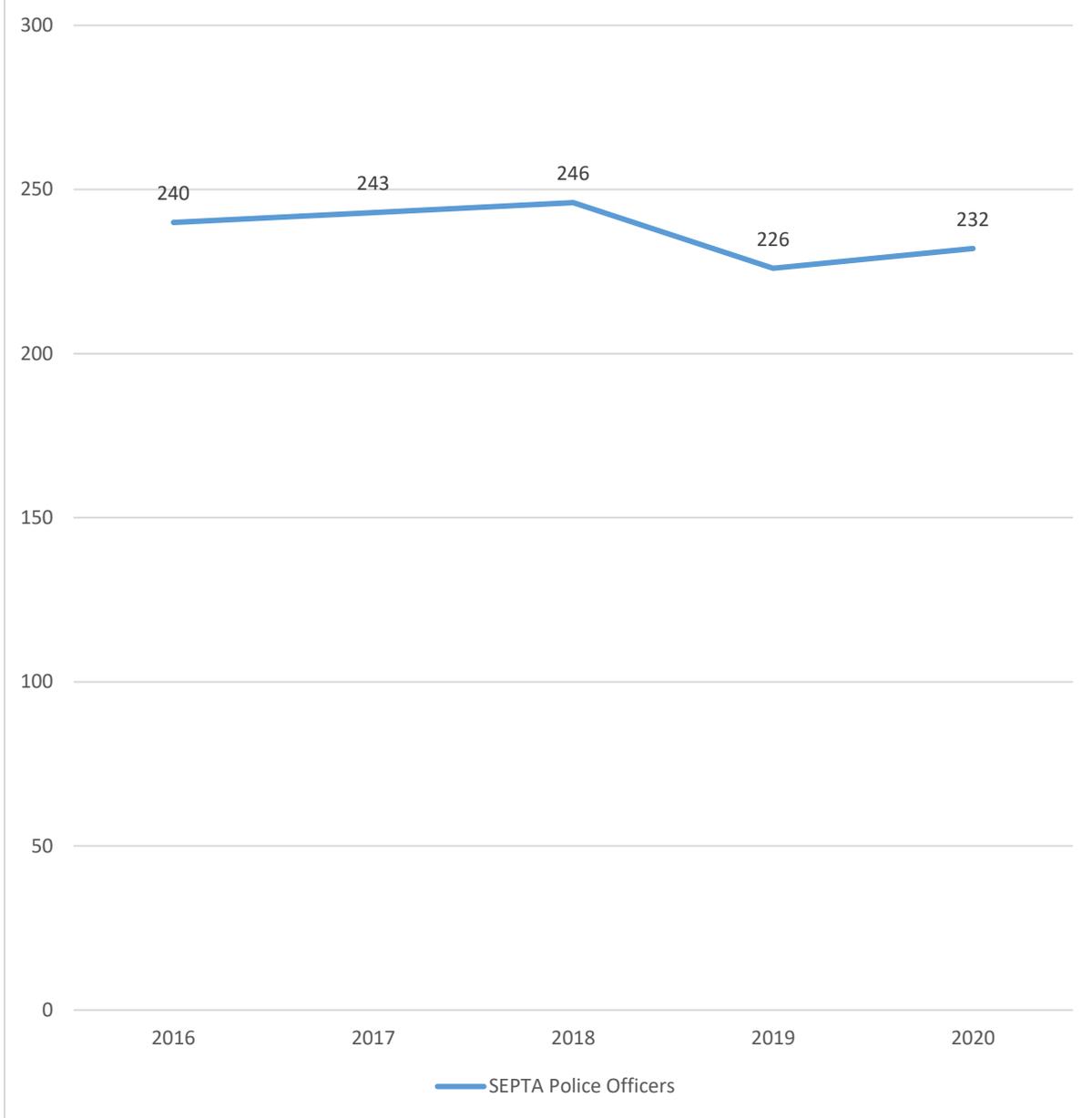
<sup>286</sup> SEPTA “Transit Police Careers,” <https://www.septa.org/police/careers.html>, last accessed on June 23, 2020.

<sup>287</sup> SEPTA, “Transit Police,” <https://autohire.careershop.com/septajobs/default.asp?ContentID=7>, last accessed on June 23, 2020.

<sup>288</sup> *Ibid.*

### CHART 9

#### Trend of SEPTA Police Officers Serving, 2016-2020



Source: Compiled by the Commission from data provided by Chief Thomas J. Nestel III and Inspector Jahlee Hatchett, SEPTA.

## *Railroad and Street Railway Police*

### *Background*

The invention of the railroad was a revolutionary piece of American history. After the American Civil War, railroad networks expanded into western territory of the country. In the beginning, it was the U.S. Army that was responsible for providing law enforcement coverage to the railways. However, organized bands of criminals and outlaws became a menace to the railroads that the U.S. Army struggled to contain. At times, these packs of outlaws blew up train bridges, tunnels, stations, tracks, and railroad cars to conduct holdups.<sup>289</sup>

In response to these criminal elements and the U.S. Army's inability to mitigate their havoc, railroad companies hired police officers. One major problem with these officers in Pennsylvania, aside from their lack of policing experience, was that they did not have the power to enforce the law beyond railroad borders.<sup>290</sup>

On February 27, 1865, the Commonwealth enacted the Railroad Police Act, which was the first official law establishing railroad police. The act authorized the governor to appoint railroad police officers and gave statewide authority to these officers. The Railroad Police Act ended up serving as a model piece of legislation for other states to follow.<sup>291</sup>

### *Legal Authority*

Today, railway and street railway police find their legal authority in Title 22, Chapter 33 of Pennsylvania's Consolidated Statutes.

### *Appointing Authority*

Corporations that own railroads and street railways can apply to the Commissioner of the Pennsylvania State Police for the appointment of an officer to their railroad and street railway. The commissioner will investigate whether the person qualifies for the position and will submit this information to the Governor. The Governor will officially choose to commission or not commission the candidate.<sup>292</sup>

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<sup>289</sup> CSX, "History of CSX RR Police," <https://www.csx.com/index.cfm/about-us/company-overview/csx-police-department/history-of-csx-rr-police/#:~:text=On%20February%2027%2C%201865%2C%20the,law%20officially%20establishing%20railroad%20police.&text=The%20Railroad%20Police%20Act%20provided,specialized%20branch%20of%20law%20enforcement,> last accessed on June 11, 2020.

<sup>290</sup> *Ibid.*

<sup>291</sup> *Ibid.*

<sup>292</sup> 22 Pa.C.S. § 3301.

### *Duties, Scope of Authority, and Jurisdiction*

Railroad and street railway police officers are empowered to exercise all the powers of Philadelphia police officers while on the property of the railroad or street railway for which they work, or in pursuit of these duties elsewhere in the Commonwealth. These powers include arrest authority. Local detention facilities or jails are authorized to keep custody of a person arrested by a railroad and street railway police officer as they await trial. While on duty, these officers must wear badges that identify them as either “railroad police” or “railway police” along with the name of the authority they work for.<sup>293</sup>

### *Qualifications and Required Training*

Candidates must complete Municipal Police Officers’ Education and Training Commission (MPOETC) training to work in this field.<sup>294</sup> For more details on MPOETC, *see Municipal Police*. Once a candidate is commissioned, they must take the “oath required by Article VI of the Constitution of Pennsylvania.” This oath must be recorded in the office of the Secretary of the Commonwealth and a copy must be kept with the commissioner of the county where the railroad or street railway is located.<sup>295</sup> Once the person’s services are no longer required, the railroad or street railway must file a notice in the office of the Secretary. It will then be recorded in the office of the recorder of deeds where the oath and commission were recorded and with the commissioner that the individual no longer possesses police powers.<sup>296</sup>

### *Right to Carry Firearms*

Since railroad and street railway police officers possess all the powers of Philadelphia police officers (which includes the right to carry firearms on duty), they have the authority to carry firearms while on duty. To carry firearms, officers must receive MPOETC firearms training.

### *Number of Individuals Serving in 2020*

Commission staff was able to obtain current 2020 numbers for railroad and street railway police officers serving throughout the Commonwealth. Currently there are 406 officers serving.<sup>297</sup>

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<sup>293</sup> *Ibid*; 22 Pa.C.S. § 3303(a)-(c).

<sup>294</sup> *Ibid*; 22 Pa.C.S. § 3303(d).

<sup>295</sup> *Ibid*; 22 Pa.C.S. § 3302.

<sup>296</sup> *Ibid*; 22 Pa.C.S. § 3305.

<sup>297</sup> Phone Call on August, 11, 2020 with Isaac W. Suydam, Director of Training, Municipal Police Officers’ Education and Training Commission.

## *PA Motor Carrier Enforcement*

### *Background*

There are approximately 614 state and local officers trained to inspect commercial vehicles and their drivers to enforce both state<sup>298</sup> and federal<sup>299</sup> motor carrier safety regulations. These officers, are generally comprised of two main types: sworn motor carrier inspectors (MCIs) and non-sworn motor carrier inspectors. Said inspectors conduct inspections of commercial vehicles “at interstate weigh stations as well as along many of the state’s frequently travelled rural roadways.”<sup>300</sup> Further breakdown of these inspectors and their roles will be discussed below.

Motor carrier enforcement in the Commonwealth initially resided under the Pennsylvania Department of Transportation (PennDOT), however, in 2005 motor carrier enforcement activities were consolidated into Pennsylvania State Police’s (PSP) Commercial Vehicle Safety Division (CVSD). The PSP now serves as the lead agency administering, supervising, and training these officers, which currently includes a roster of former civilian PennDOT inspectors that were transferred into the consolidated program, along with PSP troopers, local municipal police officers, and even PUC officials. Of the 614 state and local officers enforcing motor carrier safety regulations within the CVSD, roughly 319 are PSP troopers, 45 are trained civilian officers, 37 are PUC officials, and 213 are local municipal police officers.<sup>301</sup>

Motor carrier enforcement in the CVSD receives 85 percent of its funding from the Motor Carrier Safety Assistance Program (MCSAP) Grant. The MCSAP is a federal grant program providing funding to states to “reduce the number and severity of crashes and hazardous materials incidents involving commercial motor vehicles.” The program is the Federal Motor Carrier Safety Administration’s (FMCSA) largest grant program that provides support to both state and local law enforcement.<sup>302</sup>

### *Legal Authority*

Legal authority establishing the role and duties of motor carrier enforcement personnel can be found within 75 Pa.C.S. § 4704 of the Pennsylvania Motor Vehicle Code (Vehicle Code). Specifically, the Vehicle Code provides that motor carrier enforcement officers can be any PSP officer or qualified Commonwealth employee engaged in weighing vehicles as provided in Title 75, Ch. 49 Subch. E (relating to measuring and adjusting vehicle size and weight). Such qualified individuals are authorized under the Vehicle Code to inspect any item of the vehicle’s equipment and its load, driver, and documents to determine whether they meet standards established in

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<sup>298</sup> 75 Pa.C.S. § 4981 *et seq.*

<sup>299</sup> 49 CFR 300-399. CVSD also enforces federal commercial vehicle safety regulations adopted by reference pertaining to hazardous materials.

<sup>300</sup> Phone Call on August 26, 2020 with Stephen Adamczyk, Director of Commercial Vehicle Safety Division, Pennsylvania State Police.

<sup>301</sup> *Ibid.*

<sup>302</sup> Federal Motor Carrier Safety Administration, “Motor Carrier Safety Assistance Program (MCSAP) Grant,” <https://www.fmcsa.dot.gov/grants/mcsap-basic-incentive-grant/motor-carrier-safety-assistance-program-mcsap-grant>, last accessed on August 26, 2020.

department regulations.<sup>303</sup> It should be noted that PUC inspectors have authority under section 307 of the Public Utility Code (PUC) to “stop vehicles on the highways of this Commonwealth, and to inspect the cargoes of such vehicles, and any receipts or bills of lading pertaining to such cargoes.” The PUC also permits PUC inspectors to “arrest on view, without writ, rule, order, or process, any person operating as a motor carrier or common carrier by airplane without a required certificate or permit,” however, as noted below, PUC inspectors generally do not carry out any arrest authority.<sup>304</sup> See *PA Public Utility Commission Inspectors*.

### *Duties, Scope of Authority, and Jurisdiction*

Pursuant to the Vehicle Code and as mentioned above, motor carrier enforcement personnel have the authority to inspect any item of a commercial vehicle’s equipment, load, and driver. Specifically, these individuals can detain and inspect any sealed or unsealed vehicle, container, or shipment so long as they have probable cause to believe there may be a violation of the state and federal regulations. The inspection may be conducted while the vehicle is in transit or in maintenance facilities, terminals, or other public or private property.<sup>305</sup>

While inspecting, motor carrier enforcement personnel have the specific duty “to ascertain if commodities or materials are being unloaded, stored or transported in an illegal manner; to inspect contents; to inspect and copy documents and otherwise to ensure compliance with the law and Commonwealth regulations.” Once an officer, inspector, or specialist opens a vehicle seal for inspection, he or she is required by law to reseal any vehicle, container, or shipment prior to further transportation.<sup>306</sup> If the individual inspecting the vehicle or driver has reason to believe that a violation has occurred, he or she may at any time submit a written notice of the violations to the driver of the vehicle or the mass transit vehicle or to the owner, lessee, or registrant. Said written notice must be “attached to the vehicle or the mass transit vehicle in a conspicuous place.”<sup>307</sup>

The authority granted to these individuals may only be utilized when they are in uniform. Moreover the scope of their authority only applies to “motor carrier vehicles, buses and all vehicles and combinations carrying hazardous materials in an amount and type which require the vehicle to be placarded under 75 Pa.C.S. Chapter 83 (relating to hazardous materials transportation) and to the drivers of all such vehicles.”<sup>308</sup>

As mentioned previously, motor carrier enforcement in the CVSD are divided into two main types of officers: sworn motor carrier enforcement inspectors and non-sworn motor carrier enforcement inspectors. Sworn inspectors are commonly referred to as “troopers” and have full arrest authority. These troopers, who are certified to conduct Motor Carrier Inspections, are further broken down into two subcategories:

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<sup>303</sup> 75 Pa.C.S. § 4704.

<sup>304</sup> 66 Pa.C.S. § 307.

<sup>305</sup> 75 Pa.C.S. § 4704(a)(1)-(3).

<sup>306</sup> 75 Pa.C.S. § 4704(d).

<sup>307</sup> 75 Pa.C.S. § 4704(b).

<sup>308</sup> 75 Pa.C.S. § 4704(e).

- Full Time MCI's – These officers hold the rank of Trooper, Trooper First Class or Master Trooper and are permanently assigned to a Commercial Vehicle Enforcement (CVE) Team within one of the Troops across the Commonwealth. Their primary job function is to conduct Motor Carrier Inspections.
- Part Time MCI's – These MCIs are also enlisted members of the PSP and can hold any rank.<sup>309</sup>

The key difference between Part Time and Full Time MCI's is that Part Time MCI's are not permanently assigned to a team and being an MCI is not their primary job function. They are assigned another job function, such as a Patrol Trooper (responding to calls for service), and serve as a Motor Carrier Inspector as a secondary function.<sup>310</sup>

Non-sworn inspectors include non-sworn civilian inspectors who enjoy only limited powers as specified in sections 4704, 4981, 6117, and 8302 of the Vehicle Code. These inspectors can be broken down into three subcategories:

- Motor Carrier Enforcement Officers (MCEOs) – These officers are assigned to a CVE Team within one of the PSP Troops across the Commonwealth and work with an enlisted Full-Time MCI. Their job function is to conduct CMV Inspections.
- Motor Carrier Enforcement Supervisors (MCESs) – These individuals are assigned to a PSP Troop and are charged with supervising the MCEO's. Their job function is also to conduct CMV inspections.
- Motor Carrier Enforcement Specialists (MCESpecs) – These civilian non-sworn inspectors primarily work in the CVSD Office and assist in administering the various aspects of the MCSAP. Though it is not their primary job, they also are required to conduct CMV inspections just as the MCES's and MCEO's do.<sup>311</sup>

The Vehicle Code expressly provides that qualified Commonwealth employees who are not police officers (such as some of the trained civilians mentioned above) shall “be regarded as police officers” when acting pursuant to their authority as motor carrier enforcement personnel while instituting criminal proceedings by citation under the Pennsylvania Rules of Criminal Procedure.<sup>312</sup> In other words, motor carrier enforcement officers who are not trained police officers or PSP troopers can issue traffic citations, but hold no independent authority to arrest. Conversely, motor carrier enforcement officers, inspectors, or specialists who are trained police or PSP troopers do have the authority to place individuals under arrest as permitted by law.<sup>313</sup>

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<sup>309</sup> *Supra*, n. 300.

<sup>310</sup> *Ibid.*

<sup>311</sup> *Ibid.*

<sup>312</sup> 75 Pa.C.S. § 4704(e).

<sup>313</sup> *Supra*, n. 300.

## *Qualifications and Required Training*

The Department of Transportation is charged with the duty of establishing a program or programs to train and qualify MCEOs to inspect vehicles, equipment, documents, loads and drivers.<sup>314</sup> Currently, the PSP administers the training of all officers, inspectors, and specialists, whether they are PSP troopers, local municipal police, trained civilian officers, or PUC officials. As the lead agency, the PSP is responsible for administering all aspects of the MCSAP across the Commonwealth, which includes the training of all (PSP, municipal police, civilian and PUC) Motor Carrier Inspectors. In an effort to standardize training across the country, the specific training is developed by and coordinated through the Federal Motor Carrier Safety Association's (FMCSA) National Training Center (NTC). The NTC serves as the national focal point for development and delivery of motor carrier safety training for federal, state, and local participants. When a state wants to conduct a MCSAP training class, they must first request the training through the NTC. If the state does not have an Associate Instructor as certified by the FMCSA NTC, one will be provided by the NTC.<sup>315</sup>

Currently, the PSP has four certified NTC Associate Staff Instructors, one of which is a Master Instructor. (PSP has worked to increase its number of instructors, however, COVID-19 restrictions have hampered efforts). FMCSA NTC Associate Staff Instructors are required to attend a two-week Federal Instructor Development course, pass a written 100 question exam in under two hours and achieve a 90 percent or greater every two years, instruct a minimum of two classes per year, have no negative feedback from students over 25 percent, and undergo a field evaluation by a certified Master Instructor every two years.<sup>316</sup>

Some of the course content for training from the NTC includes the North American Standard. General course topics at the NTC also include hazardous materials, roadside courses, and investigative courses.<sup>317</sup> According to the NTC's government website, the North American Standard course is divided into Parts A and B. Part A specifically "targets Federal, State MCSAP or local law enforcement personnel responsible for conducting driver inspections."<sup>318</sup> The Part A course is designed to train Federal, State MCSAP, and local law enforcement personnel on the basic knowledge, skills, practices, and procedures needed to perform driver inspections under the MCSAP regulations.<sup>319</sup> The Part B course instructs individuals on how to complete a North American Standard vehicle inspection in accordance with the FMCSA regulations and the North American Standard Inspection Procedure, while simultaneously incorporating knowledge obtained during the Part A course.<sup>320</sup> Once individuals are trained under the North American Standard, they are able to perform safety inspections on commercial vehicles.

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<sup>314</sup> 75 Pa.C.S. § 4704(f).

<sup>315</sup> *Supra*, n. 300.

<sup>316</sup> *Ibid*.

<sup>317</sup> *Supra*, n. 300; Federal Motor Carrier Safety Administration, "National Training Center," <https://www.fmcsa.dot.gov/national-training-center>, last accessed on August 26, 2020.

<sup>318</sup> *Supra*, n. 300; Federal Motor Carrier Safety Administration, "National Training Center," <https://www.fmcsa.dot.gov/content/north-american-standard-part>, last accessed on August 26, 2020.

<sup>319</sup> *Ibid*.

<sup>320</sup> *Supra*, n. 300; Federal Motor Carrier Safety Administration, "National Training Center," <https://www.fmcsa.dot.gov/content/north-american-standard-part-b>, last accessed on August 26, 2020.

*Right to Carry Firearms*

Motor carrier enforcement personnel who are trained police officers have the right to carry firearms, however, trained civilian officers do not have the legal authority to carry or use firearms during their inspections. These officers are usually provided with defensive training and MACE instead.<sup>321</sup>

*Number of Individuals Serving 2016 - 2020*

Generally speaking, the PSP trains roughly 30 candidates for motor carrier enforcement at a time. The number of individuals serving in motor carrier enforcement tends to fluctuate on an annual basis, however, the numbers over the past five years have hovered between 600 and 700 individuals as is illustrated in the table and chart below. It should be noted that 2020 numbers have likely been impacted by the COVID-19 pandemic.

<b>TABLE 13</b>					
<b>Number of PA Motor Carrier Enforcement Personnel Serving, 2016-2020</b>					
<b>Certified-Trained Personnel</b>	<b>Year</b>				
	<b>2016</b>	<b>2017</b>	<b>2018</b>	<b>2019</b>	<b>2020</b>
Total	700	621	655	640	614

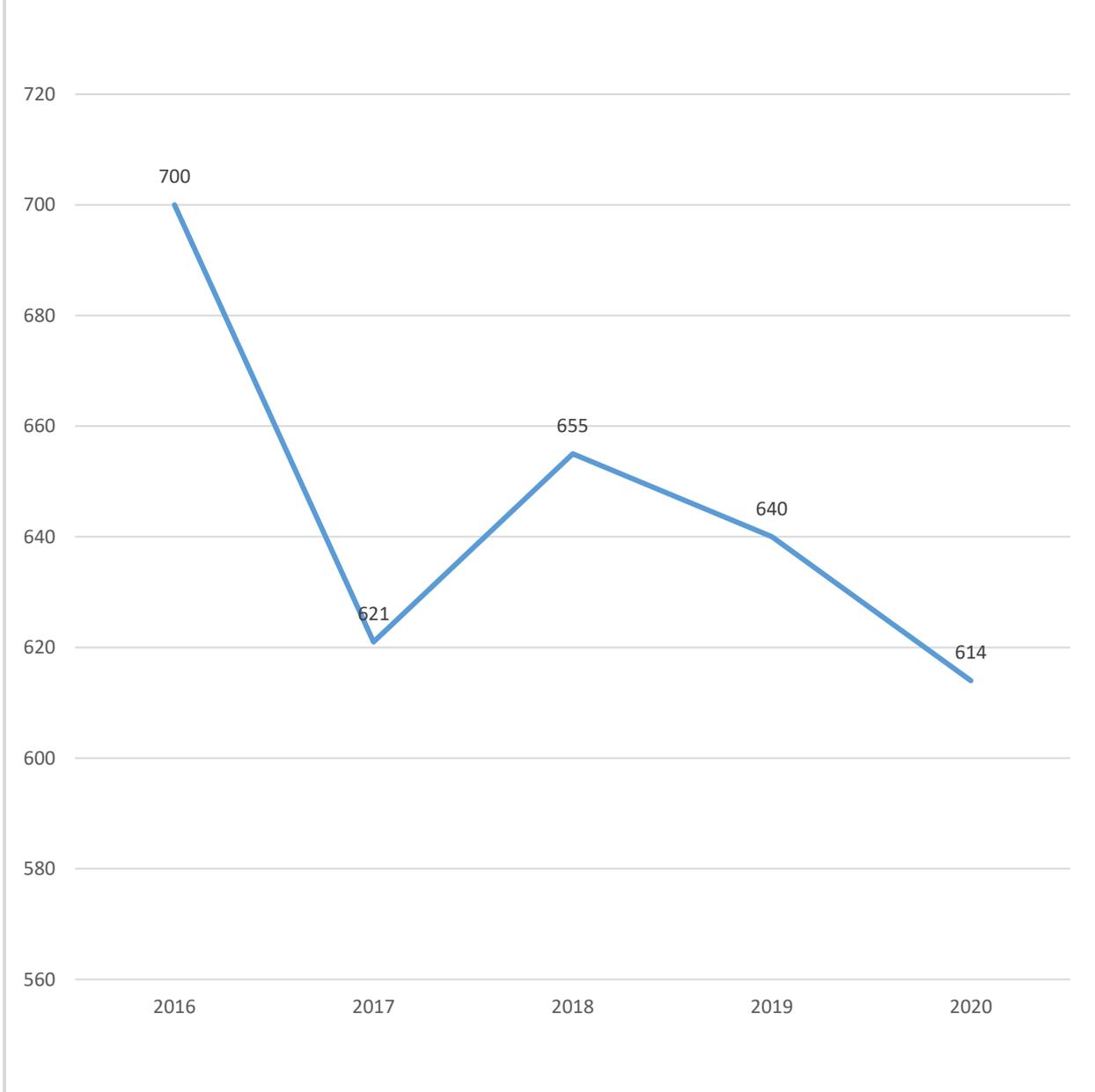
Source: Compiled by the Commission Staff based on data from Lt. Stephen J. Adamczyk, Director of the Commercial Vehicle Safety Division, Pennsylvania State Police, Bureau of Patrol.

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<sup>321</sup> *Supra*, n. 300.

### CHART 10

#### Trend of PA Motor Carrier Enforcement Personnel Serving, 2016-2020

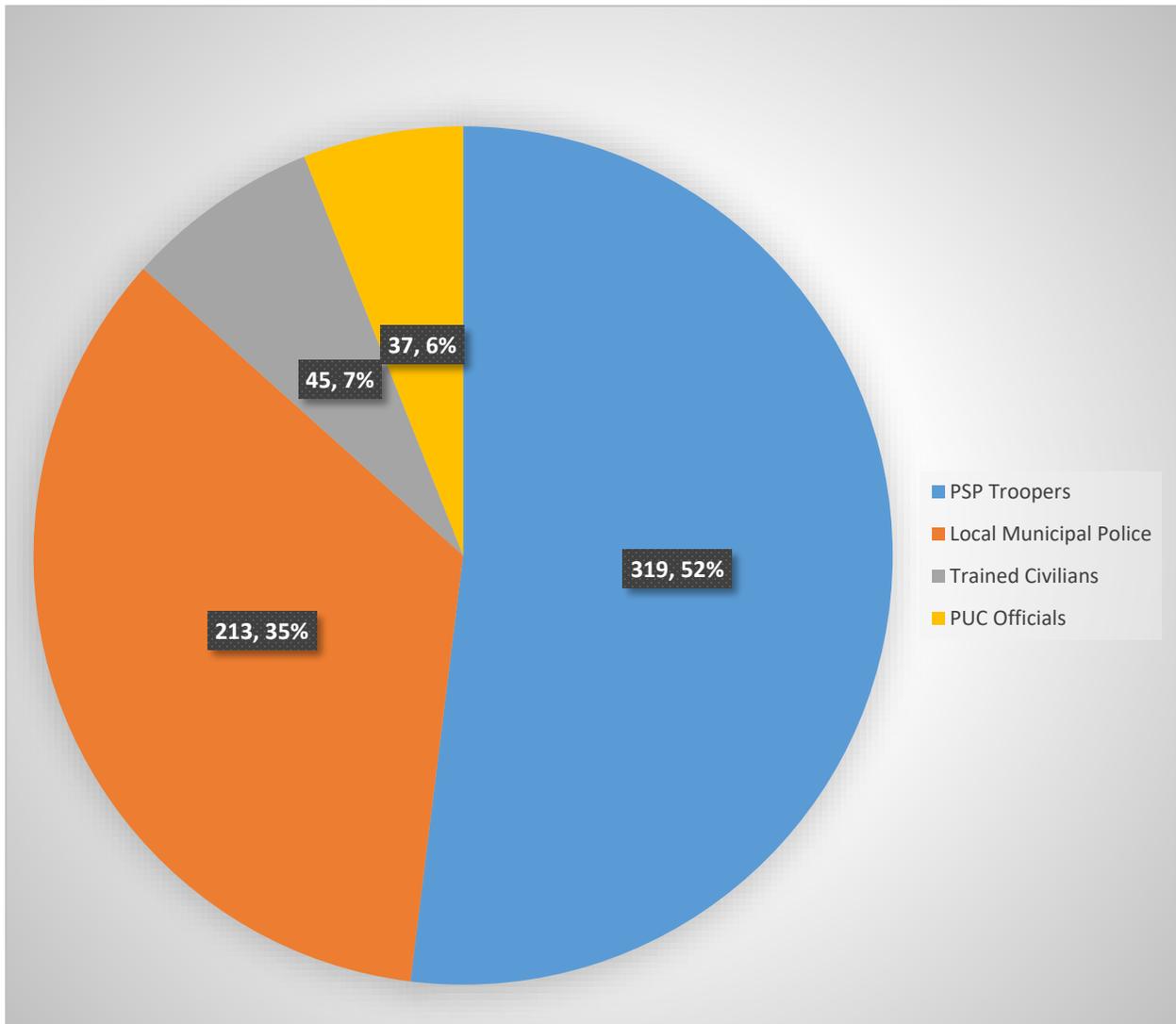


Source: Compiled by the Commission Staff based on data from Lt. Stephen J. Adamczyk, Director of the Commercial Vehicle Safety Division, Pennsylvania State Police, Bureau of Patrol.

PIE CHART 1 shows the number and percentage of Motor Carrier Enforcement (inspectors, officers, specialists, and supervisors) in Pennsylvania divided among trained civilians, PSP troopers, local municipal police, and PUC officials as of 2020.

**PIE CHART 1**

**Motor Carrier Enforcement Personnel Serving By  
Number and Percent  
Pennsylvania  
2020**



Source: Compiled by the Commission Staff based on Data from Lt. Stephen J. Adamczyk, Director of the Commercial Vehicle Safety Division, Pennsylvania State Police, Bureau of Patrol.

## *PA Public Utilities Commission (Motor Carrier) Inspectors*

### *Background*

Pennsylvania's Public Utility Commission (PUC) was created after the Public Utility Act (Act 43) was signed into law in 1937.<sup>322</sup> The PUC replaced the Pennsylvania Public Service Commission (PSC) created in 1913, which prior to its abolition, oversaw statewide utility rates; issuance of stocks, debt, and securities; the fair market value of utility property; a proper system of accounting; audits of utility companies; and subpoenaing and examining witnesses.<sup>323</sup>

The PUC is as an independent administrative commission consisting of five members appointed by the Governor, by and with the advice and consent of a majority of the members of the Senate. Each member serves for a term of five years.<sup>324</sup> One of the original legislative intentions behind the PUC was to better "supervise and regulate" all public utilities doing business in Pennsylvania. In its infancy, the PUC was tasked with rationing power supply during World War II, while keeping up with the increasing utility service needs spurred by rapid population growth in rural and suburban areas after the war. In the years following the war, the PUC grappled with issues such as the development of nuclear electricity, electric price escalation in the 1970s caused by federal legislation and inflation, and preparation for the infamous "Y2K" at the end of the millennium in 1999. These historical events gradually led to the expansion of the PUC over time.<sup>325</sup>

Today, the PUC has general administrative power and authority to supervise and regulate all public utilities doing business within the Commonwealth. The PUC's mission statement is as follows:

The Pennsylvania Public Utility Commission balances the needs of consumers and utilities; ensures safe and reliable utility service at reasonable rates; protects the public interest; educates consumers to make independent and informed utility choices; furthers economic development; and fosters new technologies and competitive markets in an environmentally sound manner.

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<sup>322</sup> PA Public Utilities Commission, "About the PUC," [http://www.puc.state.pa.us/about\\_puc.aspx#:~:text=The%20Public%20Utility%20Commission%20was,with%20its%20headquarters%20in%20Harrisburg](http://www.puc.state.pa.us/about_puc.aspx#:~:text=The%20Public%20Utility%20Commission%20was,with%20its%20headquarters%20in%20Harrisburg), last accessed on July 7, 2020.

<sup>323</sup> PA Public Utilities Commission, "A History of the Pennsylvania Public Utilities Commission 1937-2012," p. 3, [https://www.puc.state.pa.us/general/pdf/PUC\\_History.pdf](https://www.puc.state.pa.us/general/pdf/PUC_History.pdf), last accessed on July 7, 2020.

<sup>324</sup> 66 Pa.C.S. § 501(b).

<sup>325</sup> *Supra*, n. 322.

In an effort to successfully achieve its mission, the PUC may promulgate regulations, not inconsistent with existing law, “as may be necessary or proper in the exercise of its powers or for the performance of its duties.”<sup>326</sup> Moreover, every public utility, its officers, agents, and employees, affected by or subject to any regulations or orders of the PUC are legally required to comply with the PUC.<sup>327</sup> Some examples of the public utilities regulated by the PUC include electric power, nuclear energy, and coal powered energy. The PUC also regulates oil and natural gas and has the responsibility to “direct and enforce safety standards for pipeline facilities and to regulate safety practices of certificated utilities engaged in the transportation of natural gas and other gas by pipeline.” The PUC also enforces federal laws regarding pipeline safety.<sup>328</sup>

To assist in regulating public utilities operating within the Commonwealth, the PUC currently employs over 500 individuals, including attorneys, rate and service analysts, auditors, economists, engineers, motor transit and railroad specialists, communications specialists, safety inspectors, and enforcement investigators. These employees work with administrative, fiscal, computer, and clerical personnel in 12 offices and bureaus that report to an Executive Director, who is headquartered in Harrisburg. The PUC also maintains regional offices located in Altoona, Philadelphia, Pittsburgh, and Scranton. These regional offices serve as “administrative coordinating points for enforcement officers and administrative law judges.”<sup>329</sup> Enforcement officers, such as PUC inspectors, are a critical part of the PUC’s ability to uphold PUC regulations and public utilities’ continued compliance with said regulations. In general, the PUC hires two types of inspectors: commercial vehicle inspectors and pipeline inspectors. This report will focus on commercial vehicle inspectors as these inspectors are more closely-related to police officers than the PUC’s pipeline inspectors who are engineers who primarily review pipeline safety measures. It should also be noted that PUC inspectors and their roles are also discussed more generally in the section covering Pennsylvania Motor Carrier Enforcement.

### *Legal Authority*

The legal authority establishing the right of the PUC to hire inspectors is found in statutory law – in particular, section 307 of the Pennsylvania Public Utility Code (Code). Specifically, section 307 expressly provides that “[t]he commission may employ such inspectors, as it may deem necessary, for the purpose of enforcing the provisions of this [Code].”<sup>330</sup> PUC inspectors who serve as Motor Carrier Enforcement officers also obtain authority from section 4704 of the Pennsylvania Motor Vehicle Code as it relates to common carrier enforcement and hazardous materials inspections. *See PA Motor Carrier Enforcement.*

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<sup>326</sup> 66 Pa.C.S. § 301(a).

<sup>327</sup> 66 Pa.C.S. § 501(c).

<sup>328</sup> PA Public Utilities Commission, “Pipeline Safety,”

[http://www.puc.state.pa.us/consumer\\_info/transportation/pipeline\\_safety\\_.aspx](http://www.puc.state.pa.us/consumer_info/transportation/pipeline_safety_.aspx), last accessed on July 7, 2020.

<sup>329</sup> *Ibid.*

<sup>330</sup> 66 Pa.C.S. § 307.

### *Duties, Scope of Authority, and Jurisdiction*

PUC inspectors are declared by law to be police officers, and are given police power and authority with jurisdiction throughout the entire Commonwealth to arrest on view, without writ, rule, order, or process, any person operating as a motor carrier or common carrier by airplane without a certificate or permit required by the Code. In pursuance of their duties, PUC inspectors also have the authority to stop vehicles on Pennsylvania highways, and to inspect the cargoes of vehicles, and any receipts or bills of lading pertaining to such cargoes.<sup>331</sup> While it appears that PUC motor carrier inspectors enjoy some form of arrest authority, these officers generally will only hold certain violators until local police arrive to initiate an arrest and possible impoundment of a vehicle.<sup>332</sup>

### *Qualifications and Required Training*

Applicants seeking to become PUC inspectors must have graduated “from a four-year college or university with major course work in police sciences or law enforcement; or four years of professional police experience; or four years of enforcement experience with a governmental regulatory agency’s laws, rules and regulations pertaining to motor vehicles; or any equivalent combination of experience and training.”<sup>333</sup> They must also be Pennsylvania residents and have a valid Pennsylvania driver’s license.<sup>334</sup> For more information regarding PUC motor carrier inspectors, *see PA Motor Carrier Enforcement*.

### *Right to Carry Firearms*

Since PUC inspectors are declared police officers by law, and are given police power, it would seem that inspectors would enjoy similar legal authority to carry firearms during the course of carrying out their enforcement duties on behalf of the PUC, to other police officers with jurisdiction in Pennsylvania. However, the PUC itself has not approved any policy permitting its inspectors to carry firearms while carrying out their duties.<sup>335</sup>

### *Number of Individuals Serving 2016 – 2020*

According to the PUC, there have been 37 PUC motor carrier inspectors employed and serving within the Commonwealth since 2016. This number consists of 29 regular inspectors, 5 field-based supervisors, 3 managers, and the chief. This overall number of 37 inspectors has remained unchanged as of 2020.<sup>336</sup>

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<sup>331</sup> *Ibid*

<sup>332</sup> Phone Call on October 6, 2020 with Thomas Beene, Pennsylvania Utilities Commission.

<sup>333</sup> Commonwealth of Pennsylvania Career Posting, “Public Utility Enforcement Officer,” <http://www.puc.state.pa.us/general/careerops/25-18.htm>, last accessed July 7, 2020.

<sup>334</sup> *Ibid*.

<sup>335</sup> *Supra*, n. 332.

<sup>336</sup> *Ibid*.

## *Delaware River Port Authority Police Officers*

### *Background*

On July 17, 1951, President Harry S. Truman signed federal legislation creating the Delaware River Port Authority (DRPA) as the successor agency to the Delaware River Bridge Joint Commission originally established in 1919.<sup>337</sup> The DRPA was created to operate as a regional transportation agency serving as a steward of the four bridges that cross the Delaware River between Pennsylvania and New Jersey. These bridges include the Ben Franklin Bridge, Walt Whitman Bridge, Commodore Barry Bridge, and Betsy Ross Bridge. In addition to its bridges, the DRPA also currently operates a transit line between Camden County, New Jersey and Center City Philadelphia.<sup>338</sup>

The DRPA Police Department was established to protect the patrons who utilize the four Delaware River toll bridges, along with DRPA property, and other public assets spread across the toll bridges, including the Port Authority Transit Corporation (PATCO) High Speedline. The DRPA Police Department patrols and secures DRPA/PATCO property on state highways leading to the bridges, areas within municipalities located at the bridge landings (including Philadelphia and Chester, Pennsylvania, and Camden, N.J.), and the Delaware River waterway itself. To successfully patrol these properties and assets, the DRPA Police operates 13 different stations. Moreover, the department provides 24-hour coverage and handles more than 80,000 service calls annually. In carrying out their policing duties for the DRPA, its officers also work in conjunction with departments from neighboring local jurisdictions, including Philadelphia and Chester in Pennsylvania, and Bridgeport, Camden, Gloucester City, and Pennsauken in New Jersey, as well as the state police in both states. DRPA officers occasionally also cooperate with federal law enforcement agencies such as the Coast Guard, the FBI, and Homeland Security.<sup>339</sup>

Currently, the mission statement of the DRPA Police Department is to: “[e]nhance public safety by working in partnership with communities and in accordance with constitutional rights to keep safety and preserve order upon the bridges, tunnels, rapid transit systems, facilities, approaches and other property owned, leased or operated by the Authority; to act as stewards of the region’s critical transportation infrastructure; and to operate in compliance with the highest degree of ethical and professional standards.”<sup>340</sup>

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<sup>337</sup> Delaware River Port Authority, “History,” <http://www.drpa.org/about/history.html>, last accessed on July 12, 2020.

<sup>338</sup> Delaware River Port Authority, “About,” <http://www.drpa.org/about/>, last accessed on July 12, 2020.

<sup>339</sup> Delaware River Port Authority, “Police, About the Department,” <http://www.drpa.org/police/>, last accessed on July 12, 2020.

<sup>340</sup> “Our Mission & Vision,” Delaware River Port Authority, accessed June 16, 2020, <http://www.drpa.org/police/mission.html>.

### *Legal Authority*

The legal authority establishing the right of the DRPA to create its own police department is found within a 1957 statute. More specifically, the authority is rooted within Pennsylvania's Joint Compact with the state of New Jersey under section 3504.1 of the statute. The compact itself required express consent by the U.S. Congress, which was granted.<sup>341</sup>

### *Appointing Authority*

As a body corporate and politic, functioning under federally-approved legislation enacted by both Pennsylvania and New Jersey, and its wholly-owned subsidiary corporations, the DRPA has the authority to appoint as many police officers it determines "necessary to keep in safety and preserve order upon the bridges and tunnels and approaches thereto, and upon the rapid transit systems, ferries, facilities and other property as the Delaware River Port Authority or such subsidiary corporations does or may hereafter own, lease or operate..."<sup>342</sup> In appointing police officers to its department, the DRPA is authorized to administer to its officers "an oath or affirmation faithfully to perform the duties of their respective positions or offices; and to provide for the payment of such police officers from the tolls, fares, charges and other revenue of the Delaware River Port Authority or such subsidiary corporations."<sup>343</sup>

### *Duties, Scope of Authority, and Jurisdiction*

Once appointed, DRPA officers are empowered to arrest an offender for any crime committed according to either Pennsylvania or New Jersey law within their jurisdiction. Said jurisdiction includes those offenses committed upon the bridges or within the tunnels or approaches thereto, on the rapid transit systems, ferries, facilities or other property owned, leased or operated by the DRPA or its subsidiary corporations, for disorder or breach of the peace, or for violations of any lawful regulations adopted by the DRPA. Officers also enforce "tolls, fares, and other charges" related to the bridges or PATCO. In carrying out their jurisdictional police duties, officers are empowered to make arrests or issue citations.<sup>344</sup>

### *Qualifications and Required Training*

Officers must complete a police training course jointly agreed to by the Attorney General of the State of New Jersey and the Municipal Police Officer Education and Training Commission (MPOETC) with the approval of the Attorney General of Pennsylvania. The DRPA also requires its officers to submit to annual firearms qualifications as defined by Pennsylvania's Attorney General. If Pennsylvania's Attorney General deems another training program to be equivalent to the MPOETC training, an officer may be granted an exemption. However, they still must complete the aforementioned firearm qualifications.<sup>345</sup>

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<sup>341</sup> Act of April 12, 1957 (P.L. 61, No. 34), § 1; 36 P.S. § 3504.1.

<sup>342</sup> *Ibid.*

<sup>343</sup> *Ibid.*

<sup>344</sup> *Ibid.*

<sup>345</sup> *Ibid.* § 1.1a; 36 P.S. § 3504.1a.

## *Right to Carry Firearms*

Officers have the right to carry a firearm while on duty, and have the same level of immunity as any other municipal police officer, once provided the proper training.<sup>346</sup>

## *Number of Individuals Serving the Past Five Years*

Commission staff attempted to obtain service and employment data directly from the DRPA police department but were unable to collect any information.

## ***Delaware River Joint Toll Bridge Commission Police***

### *Background*

As one of the oldest toll agencies in the nation, the Delaware River Joint Toll Bridge Commission (DRJTBC) was created as a result of increased automobile use and traffic in the U.S. and a concurrent construction project responsible for shutting down half of the Northampton Street Bridge, which connected Pennsylvania and New Jersey. In 1931, legislators began the process of creating the toll agency, and on December 28, 1934, the DRJTBC was officially established. In February of 1935, the Commission held a meeting to collect testimony on the need for a toll bridge between Phillipsburg, New Jersey and Easton, Pennsylvania. From 1936 to 1938, workers constructed the Bushkill Street Bridge. The DRJTBC also presided over non-toll bridges, which supported the traffic of over 20 million cars in 1935, the first year of the commission's existence.<sup>347</sup>

Throughout the 1950s, the DRJTBC oversaw the construction of four new toll bridges, and faced severe setbacks from the floods of hurricanes Connie and Diane. By 1960, the commission was overseeing 13 non-toll bridges and five toll bridges. In the 1970s, the DRJTBC began to incorporate computer technology into its toll collection. In 1984, the DRJTBC was given full financial responsibility for its non-toll bridges, a change from the previous support from state appropriations in New Jersey and Pennsylvania. However, it was not until 1987 that the DRJTBC was given full ownership of the previously state-owned bridges. The non-toll bridges owned by the commission were considered "toll-supported bridges," as the maintenance of those bridges was financed by the DRJTBC's toll bridges.<sup>348</sup> In 1990, the I-78 toll bridge was opened and caused an increase of traffic on toll bridges greater than that of non-toll bridges. In the 2000s, the commission began to utilize the E-ZPass system to reduce lines and increase efficiency of toll collection. At present, the DRJTBC system of bridges sees around 140 million vehicles each year, for a cumulative 5.3 billion crossings since 1935. The system includes 13 non-toll bridges and seven toll bridges, as well as 36 overpass/underpass structures.<sup>349</sup>

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<sup>346</sup> *Ibid.* § 1; 36 P.S. § 3504.1.

<sup>347</sup> Delaware River Joint Toll Bridge Commission, "Commission History," accessed November 23, 2020, <https://www.drjtbc.org/history/>.

<sup>348</sup> *Ibid.*

<sup>349</sup> *Ibid.*

The DRJTBC is comprised of ten commissioners, five from New Jersey and five from Pennsylvania. The commissioners from New Jersey are nominated by the Governor and confirmed by the Senate to serve a three-year term, whereas Pennsylvania commissioners are simply appointed by the Governor and serve “at his/her pleasure.”<sup>350</sup> The commission operates under a Joint Agreement first agreed upon by New Jersey and Pennsylvania in 1934, which expanded into a federal Compact authorized by Congress in 1935.<sup>351</sup> The commissioners “meet monthly to review reports, provide oversight and set policies carried out by the Executive Director and professional staff.”<sup>352</sup> The commissioners are responsible for evaluating the need for new bridges and overseeing construction.<sup>353</sup> In 2018, the annual daily average traffic count on all the DRJTBC bridges was 141,000 automobiles.<sup>354</sup> This level of traffic makes it necessary to have a sufficient police force to enforce state law on these bridges.

### *Legal Authority*

The DRJTBC was established by a Compact between New Jersey and Pennsylvania, executed by the Governors on December 18 and 19 of 1934 respectively.<sup>355</sup> Amendments and modifications occurred on July 8, 1947, July 17, 1951, July 16, 1953, and March 19, 1986. According to Article I, Section 10, Clause 3 of the U.S. Constitution, compacts entered by two states must be approved by Congress. Congress consented to the Compact and its amendments on August 30, 1935, August 4, 1947, March 31, 1952, and April 2, 1987. The most recent and current version of the Compact was passed by the Pennsylvania General Assembly on December 18, 1984 and the New Jersey Legislature on September 12, 1985, and signed by the Pennsylvania Governor on March 19, 1986, and New Jersey’s Governor on October 28, 1985. The federal approval of the current compact came on April 2, 1987.<sup>356</sup>

The Act of March 21, 1929 (P.L. 41), § 1 provided the DRJTBC the authority to “appoint such number of policemen as may be found necessary to protect the public safety and preserve order upon any such bridge so acquired or constructed.”<sup>357</sup> Furthermore, the act provides that said policemen have the authority “to make arrests for crimes, misdemeanors, and offenses of any character, or for disorder, breach of the peace, or for violations of any rules and regulations” established by the DRJTBC and committed on any DRJTBC bridge.<sup>358</sup>

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<sup>350</sup> Delaware River Joint Toll Bridge Commission, “About the Commission,” accessed November 23, 2020, <https://www.drjtbc.org/about/>.

<sup>351</sup> *Ibid.*

<sup>352</sup> *Ibid.*

<sup>353</sup> *Ibid.*

<sup>354</sup> Delaware River Joint Toll Bridge Commission, “2018 Annual Report,” p. 40, [https://www.drjtbc.org/wp-content/uploads/20-DRJTBC-Annual18\\_v5\\_single\\_FINAL2.pdf](https://www.drjtbc.org/wp-content/uploads/20-DRJTBC-Annual18_v5_single_FINAL2.pdf), last accessed on November 25, 2020.

<sup>355</sup> Act of June 25, 1931 (P.L. 1352, No. 332), § 1; 36 P.S. § 3401.

<sup>356</sup> Delaware River Joint Toll Bridge Commission, “Compact Document,” accessed November 23, 2020, <https://www.drjtbc.org/compact>.

<sup>357</sup> Act of March 21, 1929 (P.L. 41), § 1; 36 P.S. § 3301.

<sup>358</sup> *Ibid.*

### *Duties, Scope of Authority, and Jurisdiction*

The Act of April 17, 1945 (P.L. 236, No. 106), § 1 gave police officers appointed by the commission the authority to arrest without a warrant offenders for “crimes, misdemeanors, and offenses of any character, or for disorder, or breach of the peace, or violations of any rules and regulations adopted by the Delaware River Joint Toll Bridge Commission.”<sup>359</sup> Officers have jurisdiction for this enforcement as long as the offense is committed on the approaches to commission bridges and the bridges themselves. This act also gives officers “all the powers conferred by law on police officers or constables in the enforcement of laws and the apprehension of violators.”<sup>360</sup>

### *Qualifications and Required Training*

Every DRJTBC policeman is required to take an oath or affirmation before they may perform their duties, which is administered by an officer of the Commonwealth of Pennsylvania having power to administer oaths.<sup>361</sup> Currently, Pennsylvania State Police (PSP) troopers patrol the DRJTBC bridges on the Pennsylvania side, with New Jersey State Police troopers patrolling on the New Jersey side. For qualifications and training requirements for PSP troopers, *see Pennsylvania State Police*. Also *see Constables*.

### *Right to Carry Firearms*

The PSP troopers who patrol the DRJTBC bridges have the right to carry and do carry firearms.

### *Number of Individuals Serving*

It is unclear what law enforcement presence existed from the beginning of the DRJTBC until the 2000s. In the early 2000s, the commission attempted to create its own armed police force, but this endeavor was defeated by the governors of both Pennsylvania and New Jersey. At that point, the commission employed unarmed security guards on the bridge and allowed local police to enforce on each side of the bridge. In February of 2004, the states signed an interim agreement which would “allocate three troopers and one sergeant” to five toll bridges.<sup>362</sup> State Police troopers from New Jersey and Pennsylvania continue to patrol the toll bridges today. The exact number of PSP troopers serving within DRJTBC jurisdiction today is included in the service numbers for the PSP.

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<sup>359</sup> Act of April 17, 1945 (P.L. 236, No. 106), § 1; 36 P.S. § 3305.

<sup>360</sup> *Ibid.*

<sup>361</sup> *Supra*, n. 357.

<sup>362</sup> Steve Esack, “Two States to Provide Police for Five Toll bridges Delaware River Agency Planned Its Own Force; Governors Stepped In,” *The Morning Call*, last modified February 24, 2004, <https://www.mcall.com/news/mc-xpm-2004-02-24-3522234-story.html>.

## *Port Authority of Allegheny County Police Officers*

### *Background*

The Port Authority of Allegheny County (PAC) has had its own police department since 1968. Similar to the Delaware River Port Authority police officers on the other side of the Commonwealth, these police officers work to provide security and protection of port authority riders, employees, and facilities. Currently, the PAC police department employs 47 full-time police officers to help meet its mission statement of providing “professional, fair, and impartial law enforcement services to the entire community.”<sup>363</sup>

### *Legal Authority*

Since the county of Allegheny is a second class county (800,000 – 1,499,999), the legal authority permitting Allegheny County to establish a port authority and affiliated police department comes from the Second Class County Port Authority Act (SCCPAA).<sup>364</sup> Acknowledging that the well-being and economic health of counties of the second class requires a modern transportation system, the SCCPAA specifically declares that a second class county have the legal authority to create a body corporate and politic known as The Port Authority of the applicable county and that said authority “will cooperate with all municipalities and other public bodies in which it operates so that the public transportation system may serve the interest of the residents thereof.”<sup>365</sup>

The SCCPAA further provides that a port authority may “appoint officers, agents, employes and servants, to serve at the pleasure of the board (except as may otherwise be provided in collective bargaining agreements) and to prescribe their duties and fix their compensation.” The act also broadly provides that a port authority of a second class county may also exercise all powers necessary or convenient for the carrying out of its purpose.”<sup>366</sup> Hiring police officers to protect PAC riders, employees, and facilities would fall within the authority granted in the above provision.

### *Duties, Scope of Authority, and Jurisdiction*

The SCCPAA does not appear to provide specific details about the duties of officers hired to serve the PCA, however, the PCA police department itself has indicated that its police officers “respond to and investigate crimes that are directly related to Port Authority services, employing policing strategies directed at reducing crime and keeping citizens safe throughout Allegheny

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<sup>363</sup> Port Authority of Allegheny County, “Port Authority Police,” <https://www.portauthority.org/inside-Port-Authority/rider-info/safety-and-security/port-authority-police/>, last accessed on November 11, 2020.

<sup>364</sup> County Commissioners Association of Pennsylvania, “Counties by Class,” <https://www.pacounties.org/PAsCounties/Pages/Counties-by-Class.aspx>, last accessed on November 11, 2020.

<sup>365</sup> Act of April 6, 1956 (P.L. (1955) 1414, No. 465), § 1; 55 P.S. § 551(11)-(12). Counties of the second class range in population of 800,000 to 1,499, 999.

<sup>366</sup> *Ibid.* § 3; 55 P.S. § 553(b),(b)(8).

County.” In employing its strategies, the department partners with other law enforcement and public safety agencies.<sup>367</sup>

### *Qualifications and Training Requirements*

Generally, these officers are required to comply with the Municipal Police Officers’ Education and Training Commission (MPOETC) training requirements. For more detail on MPOETC training requirements, *see Municipal Police*.<sup>368</sup>

### *Right to Carry Firearms*

Commission staff is unaware of any express statutory language that specifically addresses the right of PAC officers to carry firearms.

### *Number of Individuals Serving*

Commission staff was unable to obtain employment and service information on the number of PAC police officers serving in the Commonwealth.

## ***Airport Police***

### *Background*

Airports have been around in Pennsylvania for over 100 years. For instance, airplanes first began landing at the Harrisburg International Airport in 1918. At this time, airplanes landing in this airport did not serve commercial purposes, but rather served in a military capacity. In fact, commercial flight service did not begin at Harrisburg International Airport until 1969.<sup>369</sup> However, airports began to crop up in Pennsylvania, and in particular, the Philadelphia area, more frequently as the demand for commercial aviation across the U.S. grew in the 20<sup>th</sup> century. The term “airport” is defined under Pennsylvania law as:

[a]ny area of land or water which is used, or intended to be used, for the landing and takeoff of aircraft and any appurtenant areas which are used, or intended to be used, for airport buildings or air navigation facilities or rights-of-way, together with all airport buildings and facilities thereon. Unless indicated otherwise, airport shall include heliports and public airports.<sup>370</sup>

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<sup>367</sup> *Supra*, n. 363.

<sup>368</sup> Phone Call on November 19, 2020 with Isaac W. Suydam, Director of Training, Municipal Police Officers’ Education and Training Commission.

<sup>369</sup> Harrisburg International Airport, “History,” <http://www.flyhia.com/about-hia/history/>, last accessed on July 22, 2020.

<sup>370</sup> 74 Pa.C.S. § 5902.

Philadelphia Municipal Airport, known today as Philadelphia International Airport, opened in 1940. At its inception, the airport transported approximately 40,000 passengers on a small number of planes. Today it serves as a major air transportation hub that transports over 30 million passengers annually.<sup>371</sup> Pittsburgh International Airport, another busy airport within Pennsylvania, opened in 1952 and was initially only served by five airlines. However, the airport has expanded significantly and is even planning a \$1.1 billion terminal modernization and expansion.<sup>372</sup>

Harrisburg, Philadelphia, and Pittsburgh’s international airports are only just a few of the airports currently serving the Commonwealth. According to the Pennsylvania Department of Transportation, Pennsylvania is currently home to 125 public-use airports, 243 private-use airports, and 284 private-use heliports.

Pennsylvania’s general commercial service airports include the following<sup>373</sup>:

- Altoona-Blair County Airport
- Lancaster Airport
- Arnold Palmer Regional Airport
- Lehigh Valley International Airport
- Bradford Regional Airport
- Philadelphia International Airport
- Dubois Regional Airport
- Pittsburgh International Airport
- Erie International Airport
- University Park Airport
- Harrisburg International Airport
- Venango Regional Airport
- John Murtha Johnstown-Cambria County Airport
- Wilkes-Barre/Scranton International Airport
- Williamsport Regional Airport

As commercial airports became more prevalent in Pennsylvania, new legislative measures were taken to ensure the safety of airport consumers, employees, and assets.

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<sup>371</sup> Demian Larry, “Airports,” *The Encyclopedia of Greater Philadelphia*, <https://philadelphiaencyclopedia.org/archive/airports/>, last accessed on July 22, 2020.

<sup>372</sup> Ben Mutzabaugh, “Pittsburgh’s Airport shows off Plans for New \$1.1 Billion Terminal,” *USA Today*, (Feb. 20, 2019), <https://www.usatoday.com/story/travel/flights/todayinthesky/2019/02/20/pittsburgh-airport-sleek-new-terminal-continues-resurgence/2929825002/>, last accessed on July 22, 2020.

<sup>373</sup> Pennsylvania Department of Transportation, “Pennsylvania Airports,” <https://www.penndot.gov/TravelInPA/airports-pa/Pages/default.aspx>, last accessed on July 22, 2020.

### *Legal Authority*

Under Pennsylvania law, any airport authority, except an authority located within a county of the first or second class, is empowered “to employ such persons as are necessary to provide for the safety and well-being of persons and property at the airport.” These persons, who may include airport police officers, have the power to act in accordance with the provisions of Title 75 (relating to vehicles).<sup>374</sup>

Section 5901 of Title 74 of Pennsylvania’s Consolidated Statutes identifies Harrisburg International Airport as a state-owned airport and section 5902 identifies the Capitol City Airport in York County and the Grand Canyon Airport in Tioga County as state-owned airports.<sup>375</sup> These three airports were under the jurisdiction of the Pennsylvania Department of Transportation, and section 5903 gave the department the authority to operate the airports, and included provisions regarding commissioning of airport police after approval by the Governor.<sup>376</sup> As the commissioning of those police took place through the Governor’s authority over executive agency police, found in the act of act of May 21, 1943 (P.L. 469, No. 210), 71 P.S. § 1791 *et seq.*, the divestiture of these agencies removed them from the Governor’s jurisdiction. Ownership of all three airports were subsequently transferred to other entities – Harrisburg International Airport and Capitol City Airport have been owned and operated by the Susquehanna Area Regional Airports Authority since 1998. The Grand Canyon Airport is currently owned and operated by the Grand Canyon Airport Authority.

It should also be noted that laws governing aviation in general are established at the federal level and are regulated by the Federal Aviation Administration. Pennsylvania law makes it clear that the Pennsylvania Department of Transportation is responsible for administering the aviation provisions within the statute. Further, state law provides that the department is also responsible for promulgating and enforcing regulations necessary “to execute the powers vested in it by this part and other laws relating to aviation, airports and air safety within this Commonwealth.” Moreover, the law expressly provides that “[a]ll rules and regulations promulgated by the department under the authority of...[the act]... shall be consistent with and conform to the Federal statutes and regulations governing aeronautics.”<sup>377</sup>

### *Appointing Authority*

While Department of Transportation had the authority to appoint police officers to serve in Pennsylvania state-owned airports subject to section 1791 of Title 71, all other airport authorities have the legal right to appoint or employ their own police personnel.

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<sup>374</sup> 74 Pa.C.S. § 5904.

<sup>375</sup> 74 Pa.C.S. § 5902.

<sup>376</sup> 74 Pa.C.S. § 5903.

<sup>377</sup> 74 Pa.C.S. § 5901(a), (d).

### *Duties, Scope of Authority, and Jurisdiction*

Airport police officers for state-owned airports traditionally had the statutory authority to make arrests without warrants for crimes they witness being committed on airport premises and serve and execute warrants. Said officers were given all the powers of constables in the Commonwealth.<sup>378</sup> Airport police of airports owned by individual airport authorities are responsible for enforcing any fines for offenses on the property, including parking fines.<sup>379</sup>

### *Qualifications and Required Training*

Airport police officers are subject to the provisions of the Municipal Police Education and Training Law. For more details on the Municipal Police Education and Training Law requirements, *see Municipal Police*.

### *Right to Carry Firearms*

Airport police officers have the authority to carry firearms while on duty subject to the firearms training requirements of Municipal Police Education and Training Commission (MPOETC). For more details on MPOETC training, *see Municipal Police*.

### *Number of Individuals Serving as of 2020*

The Commission was able to obtain current 2020 numbers for those airport police officers serving throughout the Commonwealth. Currently there are 36 officers in service.<sup>380</sup>

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<sup>378</sup> *Ibid.*

<sup>379</sup> 74 Pa.C.S. § 5903.

<sup>380</sup> Phone Call on August, 11, 2020 with Isaac W. Suydam, Director of Training, Municipal Police Officers' Education and Training Commission.

# STATEWIDE ENFORCEMENT FOR SPECIFIED ACTIVITIES

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## *Liquor Control Enforcement Officers*

### *Background*

Initially enforcement of Pennsylvania’s Liquor Code fell squarely under the Pennsylvania Liquor Control Board. In 1987, authority to enforce Pennsylvania’s liquor laws was transferred to the Pennsylvania State Police through its Bureau of Liquor Control Enforcement (BLCE).<sup>381</sup> Today, the Liquor Control Board serves as an independent administrative board for the Liquor Code. The board consists of three members appointed by the Governor by and with the advice and consent of two-thirds of all the members of the Senate.<sup>382</sup>

The BLCE has a variety of enforcement tactics, from testing age compliance, to eliminating the loss of state revenue through out-of-state purchases of alcohol, to eliminating unlawful gambling. The BLCE also investigates nuisance bars, bars lacking proper licensing, and worthless checks written by licensees.<sup>383</sup> Through its powers and duties, the BLCE seeks to carry out its mission to “maintain or improve the quality of life for the citizens of the Commonwealth through education and ensuring compliance with the provisions of the Liquor Code, Title 40 and related statutes.”<sup>384</sup> A vital component of achieving its mission is the enforcement work carried out by the BLCE’s Liquor Control Enforcement Officers (LCEOs) – the duties of which will be discussed in further detail below.

### *Legal Authority*

Legal authority establishing the powers, duties, and scope of authority for LCEOs is rooted within section 2-211 of the Pennsylvania Liquor Code.

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<sup>381</sup> Act of April 12, 1951 (P.L. 90, No. 21), § 211, known as the Liquor Code; 47 P.S. § 2-211(a).

<sup>382</sup> *Ibid.* § 201; 47 P.S. § 2-201.

<sup>383</sup> Pennsylvania State Police, “Types of Enforcement,” <https://www.psp.pa.gov/LCE/Pages/Types-of-Enforcement.aspx>, last accessed on May 29, 2020.

<sup>384</sup> Pennsylvania State Police, “Liquor Control Enforcement,” <https://www.psp.pa.gov/LCE/Pages/default.aspx>, last accessed on July 6, 2020.

### *Appointing Authority*

At first blush, the authority to appoint LCEOs appears to be granted to the Liquor Control Board pursuant to section 2-207(f) of the Liquor Code which provides that the board shall have the authority to “appoint, fix the compensation and define the powers and duties of such managers, officers, inspectors, examiners, clerks and other employes as shall be required for the operation of [the Liquor Code]...”<sup>385</sup> However, upon closer inspection, section 2-211(c) of the Code, which was amended in 2017, expressly states that “[t]he Pennsylvania State Police Commissioner shall assign State Police Officers to such supervisory and other capacities in the enforcement bureau as he deems necessary. All other personnel of the enforcement bureau shall be civilians.”<sup>386</sup> This provision appears to be the relevant provision pertaining to appointment of LCEOs for purposes of enforcing the Liquor Code.

### *Duties, Scope of Authority, and Jurisdiction*

LCEOs have a litany of duties related specifically to the sale and distribution of liquor. For instance, LCEOs can investigate and bring criminal proceedings against a person where it is reasonable to suspect liquor is being sold without proper licensing. They can also arrest on view anyone who is selling or is in unlawful possession of liquor, malt, or brewed beverages as long as they are not in a private home. LCEOs also have the authority to arrest any persons they observe violating any of the following criminal statutory provisions:

- 18 Pa.C.S. § 3302 (relating to causing or risking catastrophe).
- 18 Pa.C.S. § 3304 (relating to criminal mischief).
- 18 Pa.C.S. § 4101 (relating to forgery).
- 18 Pa.C.S. § 5503 (relating to disorderly conduct).
- 18 Pa.C.S. § 5505 (relating to public drunkenness).
- 18 Pa.C.S. § 5512 (relating to lotteries, etc.).
- 18 Pa.C.S. § 5513 (relating to gambling devices, gambling, etc.).
- 18 Pa.C.S. § 5514 (relating to pool selling and bookmaking).
- 18 Pa.C.S. § 6307 (relating to misrepresentation of age to secure liquor or malt or brewed beverages).

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<sup>385</sup> *Supra*, n. 381; 47 P.S. § 2-207(f).

<sup>386</sup> *Ibid.* § 211; 47 P.S. § 2-211(c).

- 18 Pa.C.S. § 6308 (relating to purchase, consumption, possession or transportation of liquor or malt or brewed beverages).
- 18 Pa.C.S. § 6309 (relating to representing that minor is of age).
- 18 Pa.C.S. § 6310.1 (relating to selling or furnishing liquor or malt or brewed beverages to minors).
- 18 Pa.C.S. § 6310.3 (relating to carrying a false identification card).<sup>387</sup>

LCEOs also have the power of search and seizure without a warrant except for in private homes. They can seize any “liquor, alcohol or malt or brewed beverages unlawfully possessed, manufactured, sold, imported or transported and any stills, equipment, materials, utensils, vehicles, boats, vessels, animals, aircraft, or any of them, which are or have been used in the unlawful manufacture, sale, importation or transportation of the same.”<sup>388</sup> LCEOs also have the power to investigate and issue citations for any general liquor law violations in Pennsylvania. In addition, LCEOs have the authority to arrest people who commit other offenses against themselves or fellow LCEOs while they are in the line of duty acting pursuant to their authority. Such offenses against LCEOs include the following criminal statutory provisions:

- 18 Pa.C.S. § 2701 (relating to simple assault).
- 18 Pa.C.S. § 2702 (relating to aggravated assault).
- 18 Pa.C.S. § 2705 (relating to recklessly endangering another person).
- 18 Pa.C.S. § 2706 (relating to terroristic threats).
- 18 Pa.C.S. § 2709 (relating to harassment and stalking).
- 18 Pa.C.S. § 5104 (relating to resisting arrest or other law enforcement).
- 18 Pa.C.S. § 5501 (relating to riot).<sup>389</sup>

While investigating suspects, LCEOs can serve and execute warrants and serve subpoenas for offenses covered under liquor laws. They can also arrange for a drug test to be administered by an approved and qualified police department or laboratory.<sup>390</sup> There are generally two types of LCEOs: enforcement officers and enforcement officer supervisors.<sup>391</sup>

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<sup>387</sup> *Ibid* § 211; 47 P.S. § 2-211(a)(1)-(2).

<sup>388</sup> *Ibid.* § 211; 47 P.S. § 2-211(a)(3)-(5).

<sup>389</sup> *Ibid.*

<sup>390</sup> *Ibid.*

<sup>391</sup> Phone Call on September 28, 2020 with Captain James Jones, Pennsylvania Liquor Control Enforcement.

### *Qualifications and Required Training*

Applicants interested in being an LCEO must be at least 20 years old and a U.S. citizen when filling out the application. Though they may have a valid license in any state when they are appointed as a trainee, when they graduate they must be a resident of Pennsylvania and have a valid Pennsylvania license. They must also have a high school diploma or a GED when they apply.<sup>392</sup>

Applicants are immediately disqualified from consideration if they falsify, omit, or misrepresent any information throughout the process of application, including polygraph testing, the formal application, and documents necessary for the hiring process. Substance abuse “beyond what is considered experimental by the Pennsylvania State Police” is also not acceptable for applicants seeking eligibility.<sup>393</sup> Criminal arrests that would not adhere to the image of the PSP are also grounds for immediate disqualification from consideration.<sup>394</sup> Once an applicant is accepted, they become a Liquor Enforcement Officer Trainee and attend a 16-week training program at Southwest Training Center in Greensburg.<sup>395</sup> Coursework topics in the training course include, but are not limited to, the following:

- Administrative Law Judge (ALJ) Hearing Preparation
- ALJ Mock Hearing
- Civil Law and Liability
- Crimes Code
- Ethics and Values
- Evidence Procedures
- Firearms, Personal Weapon Qualification
- Firearms, Range
- Building Searches
- Anti-Social Behavior
- Alcohol in the Human Body
- First Aid and CPR
- Non-Traffic Citations
- O.C. Spray
- Physical Assessments
- Securing Crime Scene
- Search Warrants
- Search and Seizure
- Vehicle Approach.

It should be noted that the Bureau of Liquor Control Enforcement regularly updates and amends its courses.

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<sup>392</sup> Pennsylvania State Police, “Employment Opportunities,” PSP, <https://www.psp.pa.gov/employment/Pages/Liquor-Enforcement-Officer-Eligibility-Requirements.aspx>, last accessed on May 29, 2020.

<sup>393</sup> *Ibid.*

<sup>394</sup> *Ibid.*

<sup>395</sup> *Ibid.*

*Right to Carry Firearms*

While there does not appear to be any specific statutory language regarding the carrying of firearms, LCEOs do carry firearms while carrying out their enforcement duties.<sup>396</sup> As shown above, firearms training is included in the LCEO's 16-week training program.

*Number of Individuals Serving 2016 – 2020*

The following table and chart below provide the number and trend of individual LCEOs serving within the Commonwealth the past five years. It should be noted that this yearly data is fluid and may not reflect the most recent officer retirements to date for 2020.

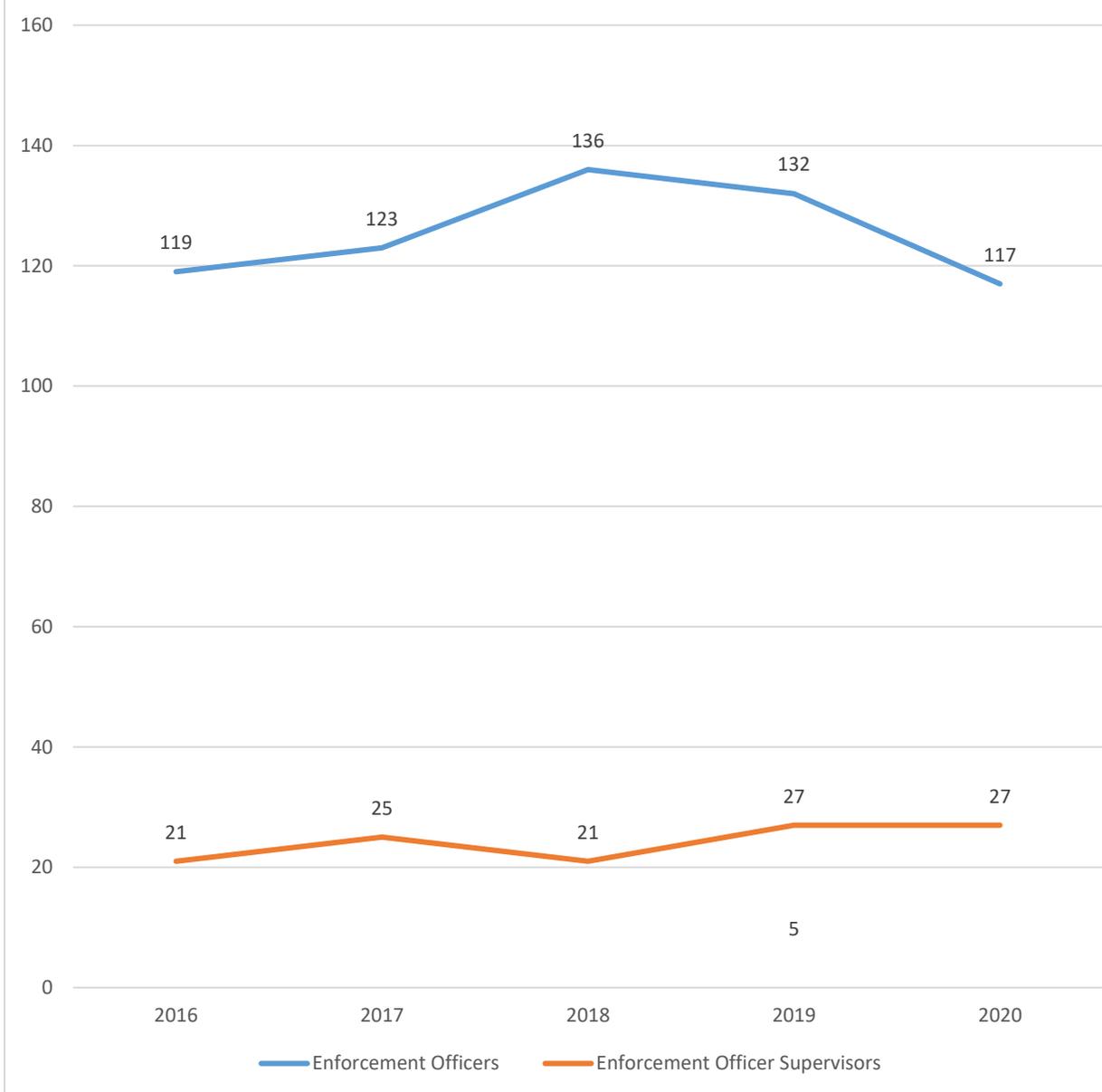
<b>TABLE 14</b>					
<b>Number of PA LCEOs Serving, 2016-2020</b>					
<b>Position</b>	<b>Year</b>				
	<b>2016</b>	<b>2017</b>	<b>2018</b>	<b>2019</b>	<b>2020</b>
Enforcement Officers	119	123	136	132	117
Enforcement Officer Supervisors	21	25	21	27	27
Total	140	148	157	159	144
Source: Compiled by the Commission Staff based on data from Captain James Jones, Bureau of Liquor Control Enforcement, Pennsylvania State Police.					

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<sup>396</sup> *Supra*, n. 391.

### CHART 11

#### Trend of PA LCEOS Serving, 2016-2020



Source: Compiled by the Commission Staff based on data from Captain James Jones, Bureau of Liquor Control Enforcement, Pennsylvania State Police.

## *Revenue Enforcement Agents*

### *Background*

Pennsylvania imposes a tax of 12 cents per gallon on liquid fuels, such as gasoline, diesel fuel, and all other special fuels with the exception of dyed diesel fuel and other alternative fuels that are used or sold and delivered by distributors situated in Pennsylvania. The Commonwealth also imposes an oil company franchise tax “on all taxable liquid fuels on a cents-per-gallon equivalent basis.”<sup>397</sup> To enforce liquid fuels and fuels tax requirements, the Pennsylvania Department of Revenue utilizes what are known as Revenue Enforcement Agents (REAs).<sup>398</sup> Beyond liquid fuels enforcement, REAs also have enforcement duties related to the Pennsylvania cigarette tax, state tobacco products tax, and as previously mentioned, the motor carrier tax. As a result, there are numerous different types of REAs within the Pennsylvania Department of Revenue. They include the following:

- Revenue Enforcement Collections Agent (RECA).
- Revenue Enforcement Agent (REA).
- Revenue Enforcement Agent Supervisor (REAS).
- Criminal Tax Investigator (CTI).
- Criminal Tax Investigator Supervisor (CTI Supervisor).
- Special Investigator (SI).
- Special Investigator Supervisor (SI Supervisor).<sup>399</sup>

### *Legal Authority*

The legal authority establishing REAs is found in section 9403 of the Liquid Fuels and Fuels Tax Enforcement Act (LFFTEA).<sup>400</sup>

### *Appointing Authority*

Revenue enforcement agents are officially appointed and designated as agents by the Secretary of Revenue.<sup>401</sup>

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<sup>397</sup> Pennsylvania Department of Revenue, “Liquid Fuels & Fuels Tax,” <https://www.revenue.pa.gov/GeneralTaxInformation/Tax%20Types%20and%20Information/MAFT/LFFT/Pages/default.aspx>, last accessed on July 14, 2020.

<sup>398</sup> *Ibid.*

<sup>399</sup> Email Correspondence on October 9, 2020 from Andrew T. Moser, Legislative Director, Pennsylvania Department of Revenue.

<sup>400</sup> 75 Pa. C.S. § 9401 *et seq.*

<sup>401</sup> 75 Pa. C.S. § 9403.

### *Duties, Scope of Authority, and Jurisdiction*

While there does not appear to be an abundance of information, statutory or otherwise on the jurisdictional duties of REAs and their training, section 9403 of the LFFTEA provides an enumerated list of duties REAs are empowered to undertake, which include the authority to:

- Enforce the provisions of the LFFTEA and Chapter 90 (relating to liquid fuels and fuels tax) and to arrest, with or without a warrant, any person violating such provisions.
- Stop a vehicle, upon request or signal, for the purpose of inspection for compliance with the provisions of the LFFTEA and Chapter 90.
- Seize and take possession, with the assistance of the Pennsylvania State Police, of any property subject to forfeiture under section 9405 (relating to forfeitures; process and procedures).<sup>402</sup>

It is important to note that no REA is expressly permitted to make a physical arrest or take an individual into custody (REAs do not carry handcuffs or have appropriate vehicles). If an arrest is warranted, agents call local police or the designated Pennsylvania State Police station. Revenue Enforcement Collections Agents write citations and Tobacco RECA's and Motor Fuels RECA's write citations and on occasion, will confiscate items.<sup>403</sup>

### *Qualifications and Required Training*

Commission staff was able to obtain some minimum education and training requirements for RECA's, REAs, and SIs. RECA's must have one year of experience as a Revenue Enforcement Agent Trainee and six hours in accounting or three hours in auditing or four years of experience in progressively responsible criminal and tax investigation work and six hours in accounting or three hours in auditing. Any combination of experience and training which includes six hours in accounting or three hours in auditing would also qualify an individual to work as an RECA.<sup>404</sup>

REAs must have one year of experience as a Revenue Enforcement Agent Trainee and six hours in accounting or three hours in auditing or four years of experience in progressively responsible criminal and tax investigation work and six hours in accounting or three hours in auditing. To qualify, an individual may have any combination of the above experience and training which includes six hours in accounting or three hours in auditing.<sup>405</sup>

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<sup>402</sup> *Ibid.*

<sup>403</sup> *Supra*, n. 399.

<sup>404</sup> Information provided by E-mail on November 24, 2020 from Andrew T. Moser, Legislative Director, Office of Legislative Affairs, Pennsylvania Department of Revenue.

<sup>405</sup> *Ibid.*

SIs must have four years of experience in progressively responsible criminal investigation work, and a bachelor’s degree or any equivalent combination of experience and training. In general, agents do not receive police-related or defensive training. If any situation warrants police action, agents call local or state police for assistance.<sup>406</sup>

*Right to Carry Firearms*

While REAs do exercise lawful police powers, no REAs are permitted to carry firearms.

*Number of Individuals Serving 2016 – 2020*

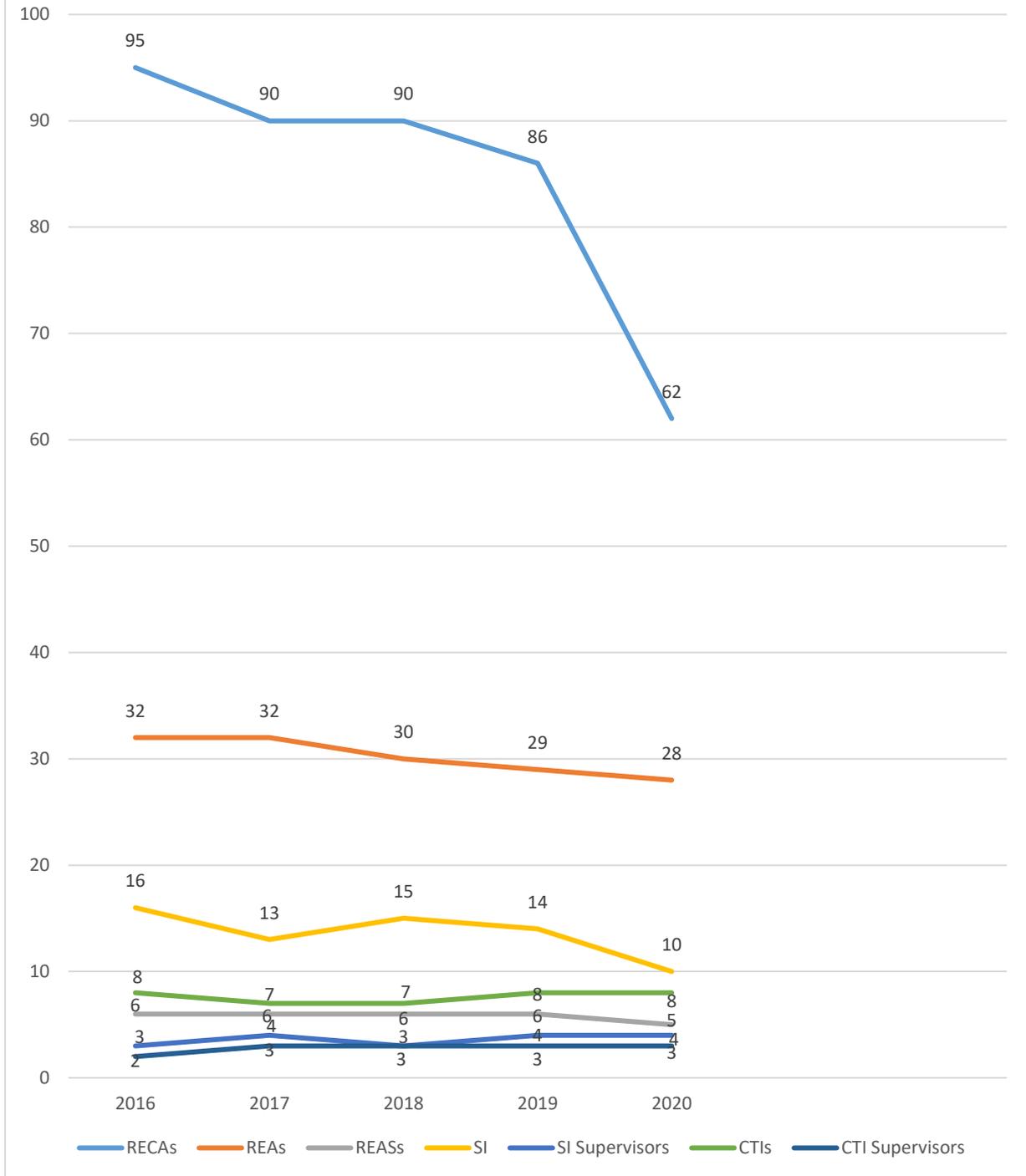
The following table and chart below provide the number and trend of all the different categories of REAs serving within the Commonwealth the past five years. It should be noted that this yearly data is fluid and may not reflect the most recent officer retirements to date.

<b>TABLE 15</b>					
<b>Number of PA REAs Serving, 2016-2020</b>					
<b>Positions</b>	<b>Year</b>				
	<b>2016</b>	<b>2017</b>	<b>2018</b>	<b>2019</b>	<b>2020</b>
RECAs	95	90	90	86	62
REAs	32	32	30	29	28
REASs	6	6	6	6	5
SIs	16	13	15	14	10
SI Supervisors	3	4	3	4	4
CTIs	8	7	7	8	8
CTI Supervisors	2	3	3	3	3
<b>Total</b>	<b>162</b>	<b>155</b>	<b>154</b>	<b>150</b>	<b>120</b>
Source: Compiled by the Commission based on data provided by Andrew T. Moser, Legislative Director, Pennsylvania Department of Revenue.					

<sup>406</sup> *Ibid.*

### CHART 12

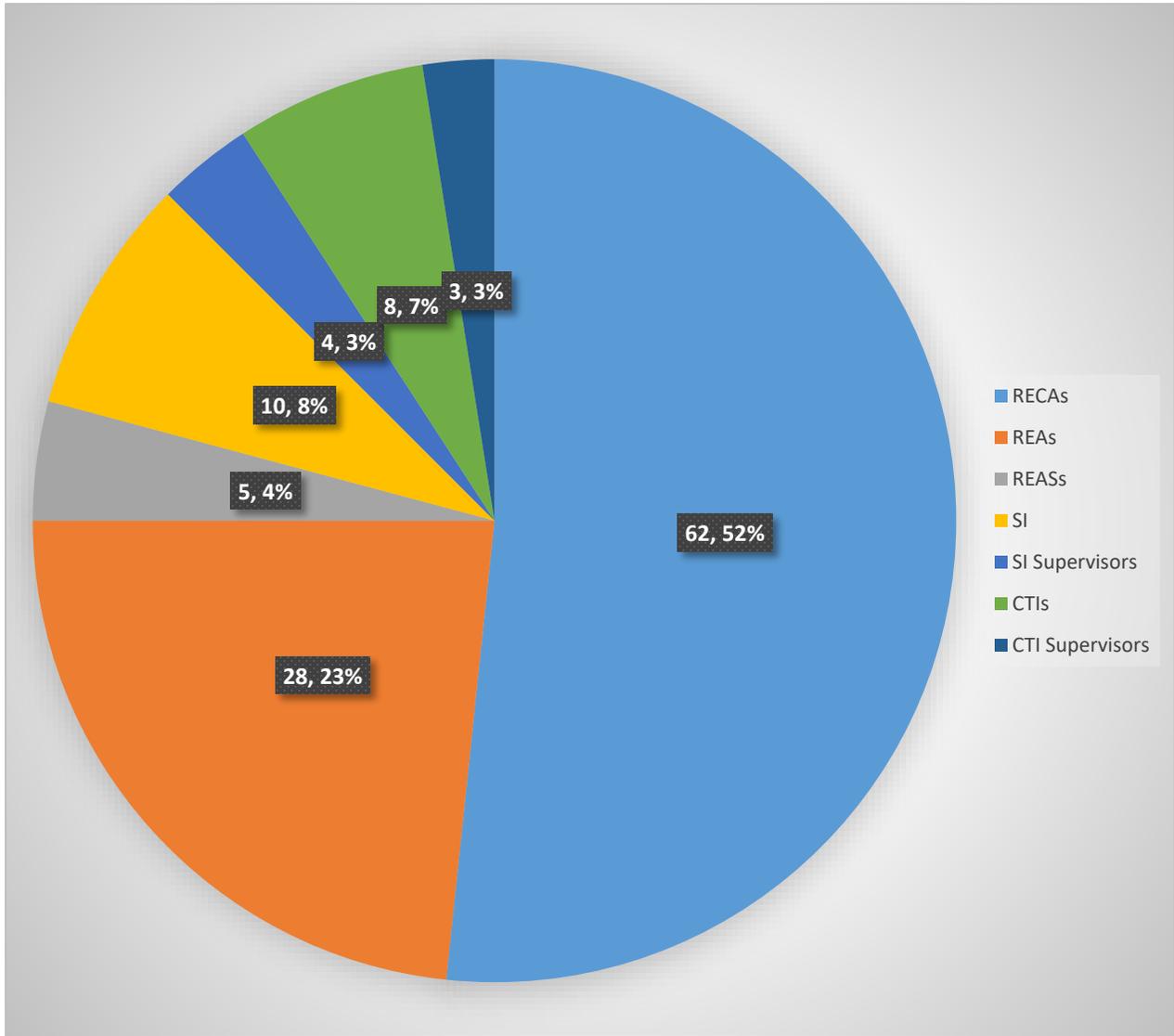
#### Trend of PA REAs Serving, 2016-2020



Source: Compiled by the Commission based on data provided by Andrew T. Moser, Legislative Director, Pennsylvania Department of Revenue.

PIE CHART 2 shows the number and percentage of different categories of REAs (RECA, REA, REAS, SI, SI Supervisors, CTI, and CTI Supervisors) as of 2020.

**PIE CHART 2**  
**PA REAs Serving By Number and Percent**  
**Pennsylvania**  
**2020**



Source: Compiled by the Commission based on data provided by Andrew T. Moser, Legislative Director, Pennsylvania Department of Revenue.



## LOCAL JURISDICTIONS

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### *Constables*

#### *Background*

Among one of the oldest law enforcement offices still in existence today is the office of the constable. The title of constable itself is derived from the root word *comes stabuli* or “Master of the Horse” or “Keeper of the King’s Stable”— a title traceable to the Roman and Byzantine Empires of the 5th century AD.<sup>407</sup>

While constables commonly held office throughout the annals of Western European history, their authority and role evolved considerably over time. For instance, the Constable of France maintained a military and judicial role during the medieval times, becoming “one of the five great officers of the state, with limited powers of jurisdiction and with command of the cavalry.”<sup>408</sup> The constable’s role eventually rose to that of supreme military command of the French army by the mid-14<sup>th</sup> century. Following this rise in power, the role began to decline and was eventually eliminated by French Prime Minister Cardinal Richelieu in 1627, revived by Napoleon I in 1808, and then finally abolished upon the restoration of the Bourbons in 1814.<sup>409</sup>

The office of the constable in England was introduced following the Norman invasion of the British Isles in 1066, with its conquerors continuing the older Anglo-Saxon system of justice with few adaptations.<sup>410</sup> Similar to France, constables in medieval England served as military officers in command of the army and controlled military garrisons and castles such as Windsor, Dover, and the infamous Tower of London.<sup>411</sup> The English constable was originally a post in the royal court, however, by the late- 13<sup>th</sup> century, the constable had evolved into an officer of a manor, parish, or township, appointed by various local bodies such as courts, and ultimately subordinate to the sheriff or mayor. The constable’s primary duty was to keep peace and order in his specific shire or ward under the “watch-and-ward” system (guarding the city gates at night). Constables also provided security for traveling justices traversing the English countryside. According to the Statute of Winchester, (1285) – the codified legislation regulating local law enforcement in England, constables held the distinct authority to arrest suspicious strangers who would then be held and guarded until further investigation. Constables generally did not handle the investigation and prosecution of crimes in England, which were viewed as private matters to be handled by

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<sup>407</sup> “Comes Stabuli,” USLEGAL.com.

<sup>408</sup> Encyclopaedia Britannica, “Constable,” <https://www.britannica.com/topic/constable> (last visited Jan. 6, 2020).

<sup>409</sup> *Ibid.*

<sup>410</sup> Joint State Government Commission (JSGC), “Constables in Pennsylvania: Proposed Statutory Reforms,” (Apr. 2014), p. 5.

<sup>411</sup> *Supra* n. 408.

individual victims.<sup>412</sup> When describing the duties of the constable, Henry de Bracton, well-known English jurist and clerk who wrote extensively between 1220 and 1250 wrote:

In whatever way and on whatever day, 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, because there is no judgment at the Tower, since there the third element of a judicial proceeding is lacking, namely a judge and jurisdiction. He has record as to matters of fact, not matters of judgment and law.<sup>413</sup>

According to Bracton's writings, the English constable served as the "eyes and ears" of the court, finding evidence and recording facts upon which judges could make a ruling.<sup>414</sup>



Source: "Policeman, Scarborough," c. 1830 by William Dempsey accessed from "The Proceedings of the Old Bailey – London's Central Criminal Court, 1674 to 1913, <https://www.oldbaileyonline.org/static/Policing.jsp>, last accessed on May 12, 2020.

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<sup>412</sup> Encyclopaedia Britannica, "The History of Policing in the West," <https://www.britannica.com/topic/police/The-history-of-policing-in-the-West> (last visited Jan. 6, 2020).

<sup>413</sup> Henry of Bratton (1968). *Bracton on the Laws and Customs of England*. Translated by Samuel E. Thorne. Cambridge, MS: Belknap Press. ISBN 0-19-626613-0. Archived from the original on 2012-07-11.

<sup>414</sup> DeLloyd J. Guth, "The Traditional Common Law Constable, 1235–1829: From Bracton to the Fieldings to Canada," In Macleod, R.C.; Schneiderman, David (eds.). *Police Powers in Canada: The Evolution and Practice of Authority*. Toronto: University of Toronto Press. p. 6.

By the 17<sup>th</sup> century, a high or chief constable was appointed in every locality and was responsible for suppressing riots and violent crimes, along with arming local militia to assist him. Petty constables began to serve under the high constable in each village. Both high and petty constables were viewed as executive legal officers of counties spread throughout England until the County Police Acts of 1839 and 1840 authorized certain local justices to establish paid police forces – a watershed development which gave rise to the country’s modern police system and led to the constable’s eventual reduction in rank and authority.<sup>415</sup>

Constables are the oldest form of law enforcement officers in the recorded history of Pennsylvania. In fact, it is alleged that a constable was the first recorded law enforcement officer to be killed in action within Pennsylvania – the constable was killed in Venango County in 1825.<sup>416</sup> According to early American records, constables first began serving Pennsylvania in the year 1664; a time when the Commonwealth was known as the colonial territory of “Penn’s Woods”. At this time, the office of constable was a close likeness to the office of constable in England.<sup>417</sup>

Constables were selected directly by the town’s people on a yearly basis alongside a board of overseers. The constitution and by-laws for each town “were framed by the constable and a majority of the board of overseers, and local observance became binding upon local inhabitants.” In addition, the constable and overseers served in a spiritual capacity, fulfilling the role of churchwardens, which were essentially the ecclesiastical governors and moral guardians of the parish or town. In this role, the constable assisted in the collection of local taxes or rates and was empowered to recover tax arrearages from those who failed to pay. Constables and overseers were also charged with notifying the semi-annual court of sessions of all unpunished transgressions of the town’s moral code. All of these duties added up to a much more principal purpose akin to that of constables in England: to preserve the peace of the community.<sup>418</sup>

The primary functions of the constable in Pennsylvania began to transform with the passage of time. A 1913 publication of *Pennsylvania Justices’ Digest and Guide* described 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 the 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>419</sup>

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<sup>415</sup> *Supra* n. 410.

<sup>416</sup> National Law Enforcement Officers Memorial Fund, “William Davidson,” <http://names.lawmemorial.org/officers/d/william-davidson.html>.

<sup>417</sup> *Supra* n. 410 at p. 6.

<sup>418</sup> E.R.L. Gould, “Local Self-Government in Pennsylvania,” *The Pennsylvania Magazine of History and Biography*, 156-59 (Vol. 6, No. 2) (1882).

<sup>419</sup> A.R. Place, *Pennsylvania Justices’ Digest and Guide with Forms of Practice Embracing All the Statutes, Decisions and Forms Pertaining to the Duties of Justices of the Peace, Alderman, Magistrates, Mayors, Burgesses and Constables* 42, (1913) cited in *Supra* n. 410 at p. 7.

According to a previous 2014 report published by the Commission entitled *Constables in Pennsylvania: Proposed Statutory Reforms*, some researchers believe that the historical function of the constable as a peace officer had virtually been replaced in Pennsylvania by the mid-20<sup>th</sup> century by a much more commercial function. The Commission’s report linked this assumption to a combination of factors, including the reality that “arresting criminal offenders is likely more unpleasant and more dangerous than performing the duties that are commercial in nature.”<sup>420</sup> Furthermore, the report suggested that the creation of municipal police departments among townships and boroughs may also partially explain the reason behind its functional transformation.<sup>421</sup>

More contemporary functions of the Pennsylvania constable have included the service of process for district courts and the levy and execution of judgments. Constables have also aided “in the collection of small claims too minor to interest an attorney and in the enforcement of landlords’ remedies against delinquent tenants.”<sup>422</sup>

Today a constable is an elected officer, independent of both the judiciary and the municipality in which he or she has been elected.<sup>423</sup> In fact, constables are essentially independent contractors, subject to no direct, routine, or formal oversight.<sup>424</sup>

### *Legal Authority*

Foundational legal authority for the office of constable and its deputies can be found in Chapter 71 under Title 44 (Law and Justice) of Pennsylvania’s Consolidated Statutes. This chapter covers definitions pertinent to the office, election requirements, appointment, conflicts, training, powers and duties, compensation, and relevant penalties and remedies.<sup>425</sup> However, there are many other state statutes in addition to Chapter 71 referencing constables and the performance of their duties. In addition, a growing thicket of court precedence established over time has helped to supplement the constabulary’s statutory authority.

### *Appointing Authority*

As mentioned previously, the office of constable is not an appointed position. Rather, the office of constable is generally an elected position that spans a term of six years within any city of the second class, city of the second class A, city of the third class, borough, incorporated town, or township.<sup>426</sup> In cities of the second and third class, qualified voters for each individual ward situated within the city elects a constable for each of their respective wards.<sup>427</sup> The same is true for a borough that is divided by wards, however, the qualified electorate in a borough also votes

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<sup>420</sup> *Supra* n. 410 at p. 7.

<sup>421</sup> *Ibid.*

<sup>422</sup> *In re Act 147*, 598 A.2d at 986.

<sup>423</sup> *Ibid.*

<sup>424</sup> 44 Pa.C.S. § 7142(f).

<sup>425</sup> 44 Pa.C.S. § 7101 *et seq.*

<sup>426</sup> 44 Pa.C.S. § 7111.

<sup>427</sup> 44 Pa.C.S. § 7112.

for a high constable for the overall borough in addition to the constables of each individual ward.<sup>428</sup> In 1970, the office of constable was abolished under Pennsylvania law for cities of the first class.<sup>429</sup>

The office of constable only becomes an appointed position in Pennsylvania when a vacancy occurs. In the event of a vacancy, for any reason, the court of common pleas of the county of the vacancy, upon petition of not less than ten qualified electors residing in the borough, city, ward, or township of the vacancy, appoints a suitable individual, “who, upon being qualified as required by law, shall serve as the constable for the unexpired term of the vacancy.”<sup>430</sup>

### *Deputy Constables*

Subject to approval by the court of common pleas, a deputy constable may be appointed by a constable as a subordinate officer. The deputy constable is merely an agent of the elected constable, and the deputy’s authority, like that of any other agent, may be revoked at any time by the constable.<sup>431</sup> Moreover, the elected constable is responsible, like any other principal, for actions of his or her deputy.<sup>432</sup> The law further requires that no person shall be appointed as a deputy constable unless, “at the time of appointment, he is a bona fide resident of the ward, borough or township for which he is appointed and he continues to be a bona fide resident for the duration of the appointment.”<sup>433</sup> If a deputy no longer resides in, or ceases to be a qualified elector of the ward in which he or she was appointed to serve, the court of common pleas may revoke the appointment of the deputy upon petition of five duly qualified electors of the ward and proof of facts requiring revocation.<sup>434</sup> Since no separate office of deputy constable exists under Pennsylvania law, no vacancy can occur in that office; thus, there is no requirement that a new deputy succeed a former or outgoing one.<sup>435</sup>

For more than a century, Pennsylvania courts have rendered holdings dating back to 1820 where in each instance, a constable was required by the court of common pleas or court of quarter sessions (as it was formally known) to show “necessity” or “need” for the appointment of a deputy before the court would approve it. The question of what rises to the level of “need” or “necessity” has been determined by courts on a case by case basis but the historical pattern of the court’s approval process was effectively summarized as follows:

[t]he courts have held that approval of a deputy constable's appointment should not be a pro forma matter. To the contrary, the cases generally have discouraged the practice of approving deputy appointments and, thus, *consistently have required a constable to show a reason or necessity for the appointment before receiving court approval. To satisfy that burden, the constable must establish*

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<sup>428</sup> 44 Pa.C.S. § 7113.

<sup>429</sup> 44 Pa.C.S. § 7103 – the only city of the first class in Pennsylvania is the city of Philadelphia.

<sup>430</sup> 44 Pa.C.S. § 7121.

<sup>431</sup> *In re Page*, 205 A.2d 637, 205 (Pa.Super. 1964).

<sup>432</sup> *Ibid.*

<sup>433</sup> 44 Pa.C.S. § 7122(a)-(b).

<sup>434</sup> *Ibid.*

<sup>435</sup> *In re: Hunter*, 782 A.2d 610 (Pa. CmwltH Ct. 2001) overruled by *In re: Fry: Appeal of Ian Castaneira*, 110 A.3d 1103(Pa. CmwltH. 2015) on the issue of constable burden of proof to demonstrate need.

*an inability to attend to his duties of office because of a large volume of business, personal disability or some other unusual condition.*<sup>436</sup>

In the 2001 court case of *In re Hunter*, the Commonwealth Court determined that this stretch of court cases approving appointments strictly based on a showing of need demonstrated a burden of proof that constables must satisfy for every appointment. Specifically, the court pointed out that “the cases generally have discouraged the practice of approving deputy appointments and, thus, consistently have required a constable to show a reason or necessity for the appointment before receiving court approval” based on the established standard of need.<sup>437</sup> In 2015, the same court overturned this holding in the case of *In re: Fry*, holding that a constable is in fact not required to make a showing of need before being permitted to hire a deputy by the court of common pleas. Instead, the court determined that the court had the discretion to consider need as one non-dispositive factor in approving a petition for deputy constable. In other words, the court rejected the contention that a constable must demonstrate a need to hire a deputy constable for court approval. With equal measure, the court also rejected the inverse notion that a court is obligated to rubber-stamp any candidate the constable chooses to hire as a deputy so long as he or she resides in the relevant town, township, borough, district or ward.<sup>438</sup>

#### *Duties, Scope of Authority, and Jurisdiction*

Constables and their deputies are afforded a number of powers and duties. These duties and powers range from preserving the peace at local elections, executing warrants for delinquent taxpayers, serving process for coroners, arresting individuals within their jurisdiction for a breach of the peace, and other enumerated powers. Specifically, these powers include the following:

- Serving at all elections in order to preserve the peace at the polling place in each election district of his or her borough, township or ward during the continuance of each election and while the votes are being counted.<sup>439</sup>
- If no coroner is in commission to serve process in a suit instituted in a Pennsylvania court, a constable in the county where the process has been issued may serve as the coroner and perform the authorized duties of the coroner.<sup>440</sup>
- Executing a warrant against delinquent taxpayers and preparing a report and payment of all collections on warrants at least once in every week after said warrants are issued.<sup>441</sup>

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<sup>436</sup> *In re: Appointment of Deputy Constable for Jenner Township, Somerset County*, 21 Som. L.J. 47 (1962); *In re Application of Forti*, 24 Pa. D. & C.2d 198 (1961) [sic]; *In re Petition of Turner*, 18 Pa. D. & C.2d 429 (1959); *In re Petition of Preno*, 77 Pa. D. & C. 193 (1952); *In re Application of Townsend*, 22 Pa. D. & C. 14 (1934) (Emphasis Added).

<sup>437</sup> *In re Hunter*, at 615.

<sup>438</sup> *In re: Fry: Appeal of Ian Castaneira*, 110 A.3d 1103, 1108-09 (Pa. Cmwlth. 2015).

<sup>439</sup> 44 Pa.C.S. § 7152.

<sup>440</sup> 44 Pa.C.S. § 7153.

<sup>441</sup> 44 Pa.C.S. § 7154.

- Performing a warrantless arrest, on an individual trespassing upon any forest or timber land within the Commonwealth under circumstances as to warrant reasonable suspicion that such person has, is or may commit an offense against any law protecting forests or timber land.<sup>442</sup>
- Issuing Writs of Execution on any defendant to the magisterial district judges within his or her borough, township or ward.<sup>443</sup>
- Appearing before a court to investigate a complaint of a violation of law or of a condition which a constable is required to report to the court and to make a report of his or her investigation.<sup>444</sup>
- Arresting without warrant and upon view, any person guilty of a breach of the peace, vagrancy, riotous or disorderly conduct or drunkenness; a person engaged in the commission of any unlawful act tending to imperil the personal security or endanger the property of the citizens; or a person who violates any ordinance of the borough for which a fine or penalty is imposed.<sup>445</sup>
- Preparing written reports regarding the sale and all money realized from the sale of trespassing livestock to the magisterial district judge.<sup>446</sup>

The jurisdiction and scope of constables and their deputies is generally confined to the borough, township or ward they are situated in by virtue of the constable's election.

### *Qualifications*

In order to perform any of his or her judicial duties and obtain statutory fees, surcharges, and mileage reimbursement, a constable or deputy constable must be certifiably trained by the Constables' Education and Training Program's (CETP) basic training.<sup>447</sup>

### *Required Training*

The CETP is implemented and administered by the Constables' Education and Training Board (Board), which is composed of the Pennsylvania State Police Commissioner or his designee and six other members appointed by the Governor with the consent of a majority of the members of the Senate. Moreover, three of the gubernatorial appointees must be constables, one must be a magisterial district judge, one must be a court administrator, and one a county commissioner. Members serve for three-year terms and may be appointed for more than one additional consecutive term. If a member who serves by virtue of public office ceases to represent the class to which he or she was appointed, his or her membership in the commission is terminated

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<sup>442</sup> 44 Pa.C.S. § 7155.

<sup>443</sup> 44 Pa.C.S. § 7156.

<sup>444</sup> 44 Pa.C.S. § 7157.

<sup>445</sup> 44 Pa.C.S. § 7158.

<sup>446</sup> 44 Pa.C.S. § 7159.

<sup>447</sup> 44 Pa.C.S. § 7142(a).

immediately, and a new member must be appointed in the same manner as his or her predecessor to fill the remainder of the term. The Board is required to meet as often as it deems necessary and at a minimum of four times each year.<sup>448</sup>

Candidates must register with the Constables' Certification, Education, and Training System (CCETS) to participate in all training provided by the CETP. CETP certified training includes 80 hours of basic training, 40 hours of Basic Firearms Training, 8 hours of continuing education training, and 4 hours of annual firearms qualifications courses.<sup>449</sup>

To successfully complete basic training, "an individual must attend and participate in all training as scheduled, achieve a passing score of at least 70 percent on each written examination administered during the course, and successfully demonstrate practical skills during each proficiency examination."<sup>450</sup> Basic training itself consists of numerous subjects on which constables and deputy constables are tested. These subjects include the following:

- 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.
- Management of aggressive behavior (MOAB).
- Expandable baton (MEB).
- Oleoresin capsicum (OCAT).<sup>451</sup>

If an individual receives less than 70 percent on any written exam, he or she will have only one opportunity to re-test in that subject. If an individual fails the re-test, her or she has failed the basic training course and will not be certified by the Board.<sup>452</sup>

After basic training is completed, constables and deputy constables are required to attend and successfully complete continuing education every year moving forward in order to renew their certifications for each following calendar year. For example, successful completion of the 8-Hour Continuing Education course in a current year of service will serve as the supporting basis for renewal of a constable's certification for the next year. Similar to basic training completion requirements, the successful completion of continuing education requires that an individual attend

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<sup>448</sup> 44 Pa.C.S. § 7143, 7144.

<sup>449</sup> 37 Pa. Code § 431.11.

<sup>450</sup> *Ibid.* § 431.22; Pennsylvania Commission on Crime and Delinquency, "Information for New Constables and Deputy Constables," *Constables' Education and Training Board*, (Rev. Dec. 2018), p. 5, <https://www.pccd.pa.gov/training/Documents/Constable%20Education%20and%20Training/2019%20NEW%20CONSTABLE%20GUIDE.pdf>, last accessed on January 15, 2020.

<sup>451</sup> 37 Pa. Code § 431.22; Pennsylvania Commission on Crime and Delinquency, "Information for New Constables and Deputy Constables," p. 5. Oleoresin capsicum is more commonly referred to as "pepper spray."

<sup>452</sup> *Id.*

and participate in all training as scheduled, achieve a passing score of at least 70% on each written examination administered within the course, and “successfully demonstrate practical skills during each proficiency examination.”<sup>453</sup> A constable or deputy constable may be eligible to apply for a waiver regarding basic training if he or she is currently employed as a municipal police officer or deputy sheriff in Pennsylvania with all current required training and certification, or if he or she was employed within the past two years as a State Police Officer, municipal police officer or deputy sheriff and has all current training and certifications at the time he or she terminated his or her employment.<sup>454</sup>

### *Right to Carry Firearms*

Constables and deputy constables have the right to carry a firearm, however, they are not required to do so. The choice is ultimately left to the constable or deputy constable’s discretion. If a constable or deputy constable elects to carry a firearm during the performance of his or her duties, he or she is required pursuant to the Pennsylvania Unified Judicial System, Constable Policies, Procedures, and Standards of Conduct, to receive firearm certification pursuant to the provisions of 44 Pa.C.S. Ch. 71. Specifically, 44 Pa.C.S. Ch. 71 requires Basic Firearms Training and certification for any constable or deputy constable who seeks to carry a firearm while carrying out his or her duties. In order to receive Basic Firearms Training, an individual must have acquired a certification number signifying their completion of the 80-hour basic training and must be at least 21 years of age pursuant to Board regulation.<sup>455</sup> Constables are exempt from state restrictions on concealed carry without a valid license under the Uniform Firearms Act.<sup>456</sup>

Basic Firearms Training is a total of 40 hours consisting of a series of lectures, laboratory activities, and practical exercises “that provide a basic understanding of the safe manipulation of a revolver or semi-automatic pistol.”<sup>457</sup> The course “starts with the presumption that the participant has little or no formal training” and “stresses safe handling techniques, proper cleaning, correct weapons handling skills, and marksmanship.”<sup>458</sup> To properly train a constable or deputy constable on firearms, the courses expose all trainees to firing in reduced light and to “interactive judgmental shooting scenarios.” The constable qualification course (CQC) for firearms training is divided into two stages. A constable trainee must qualify on each phase with a score of at least a 75 percent to pass the CQC. In August of 2018, the Board approved a policy amendment ending previously allowed remediation training for individuals who fail either phase of the CQC of fire on their first attempt. Constable firearms trainees may take a retest after failing to obtain a passing score on a written firearms examination or practical skill proficiency examination, however, if the individual fails the retest, he or she must cease participating in the course and attend and successfully complete a second firearms qualification course, bearing the financial responsibility for said second course.<sup>459</sup>

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<sup>453</sup> *Id.* at § 431.13; p. 6.

<sup>454</sup> 37 Pa. Code § 431.23(1)-(2).

<sup>455</sup> *Supra* n. 451; at § 431.42; p. 6.

<sup>456</sup> 18 Pa.C.S. § 6106. (2)(b).

<sup>457</sup> Pennsylvania Commission on Crime and Delinquency, “Information for New Constables and Deputy Constables,” p. 6-7.

<sup>458</sup> *Ibid.*

<sup>459</sup> *Ibid.*

Once a basic firearms certification is successfully completed, a constable and deputy constable must complete annual firearms training thereafter to maintain his or her certification. The annual course consists of four hours of firearms training. This annual 4-hour course consists of a written test, administrative procedures, safety brief, and firing. In preparation for the course and its corresponding test, a Student Firearms Study Guide is provided to all constables and deputy constables to review.<sup>460</sup>

Schools and instructors permitted to provide the classes necessary to train, educate, and certify constables and their deputy counterparts are approved by the Board. Specifically, the “Board will approve one or more schools to conduct training...[s]elections will be made from a list of schools solicited by the Commission [on Crime and Delinquency] through a competitive process.”<sup>461</sup> Board approval of a school is only effective for the duration of a contract executed between the Commission on Crime and Delinquency and the school itself.<sup>462</sup> Regarding instructors, the Board certifies individuals who apply to the Board through a school and submit information as requested. Information required in the application includes a detailed description of the formal training and actual experience in the specific topics for which certification is sought, and a description of instructional experience.<sup>463</sup> A person certified by the Board as an instructor can only use the certification for Board training in a school. Board certification remains effective so long as the instructor is actively teaching in a school the topics for which certification was granted.<sup>464</sup>

*Number of Individuals Serving 2015 – 2019*

The following table and chart shown below provide information regarding the numbers and trend of individual constables serving within the Commonwealth for the last five years for which data was available.

<b>TABLE 16</b>					
<b>Number of PA Constables Serving, 2015-2019</b>					
<b>Certified-Trained Personnel</b>	<b>Year</b>				
	<b>2015</b>	<b>2016</b>	<b>2017</b>	<b>2018</b>	<b>2019</b>
Total	1,256	1,413	1,428	1,328	1,213
Source: Compiled by the Commission Staff based on data from the Pennsylvania Commission on Crime and Delinquency.					

<sup>460</sup> *Ibid.* at p. 7.

<sup>461</sup> 37 Pa. Code § 431.51(a)-(b).

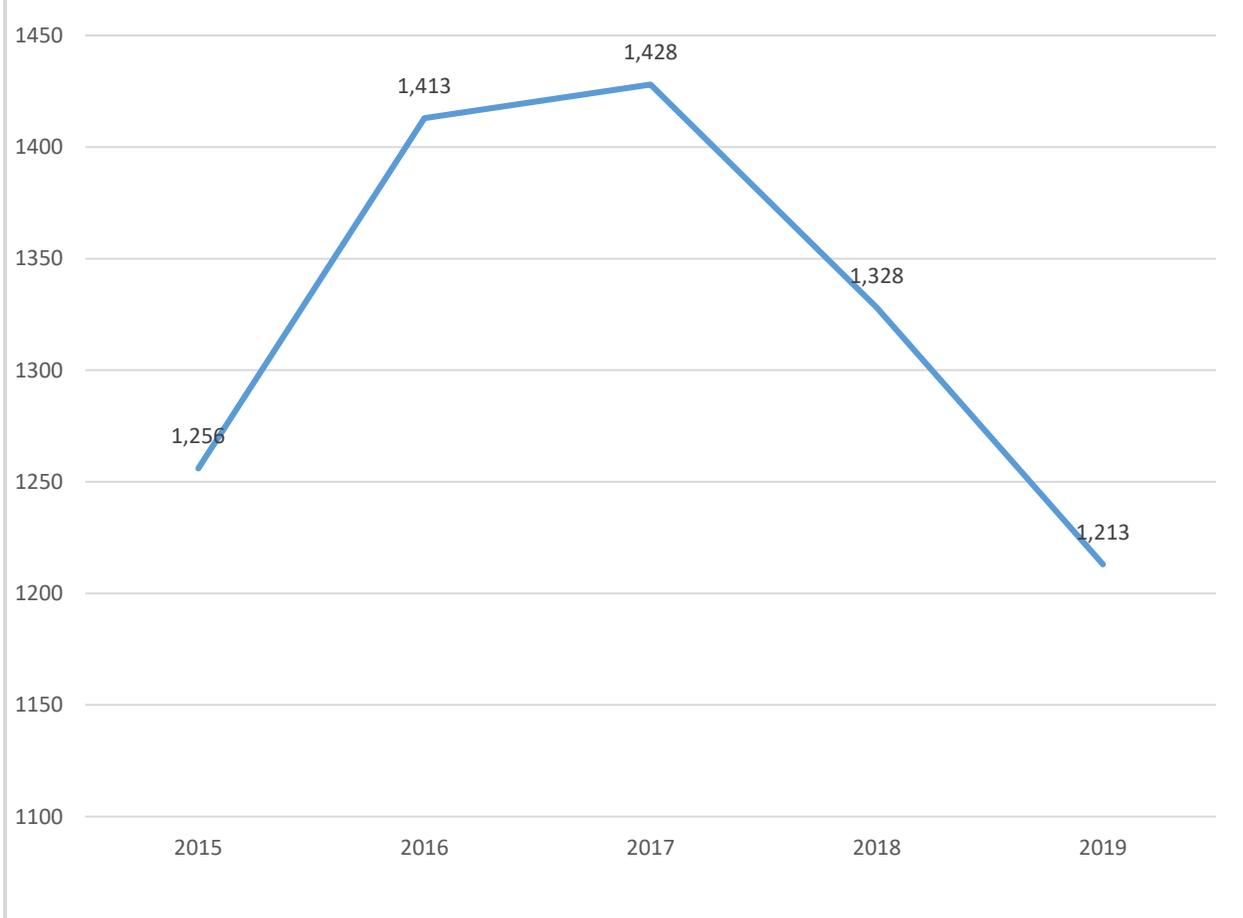
<sup>462</sup> *Ibid.* § 431.52.

<sup>463</sup> *Ibid.* § 431.53.

<sup>464</sup> *Ibid.* § 431.54.

**CHART 13**

**Trend of PA Constables Serving,  
2015-2019**



Source: Compiled by the Commission Staff based on data from the Pennsylvania Commission on Crime and Delinquency.

## *Sheriffs*

### *Background*

The office of the sheriff originated in Anglo-Saxon England. The title came from the two Anglo-Saxon root words “*seyre*” and “*reve*,” meaning “shire” and “baliff.” This office was originally appointed directly by the king to oversee different shires and do the king’s bidding.<sup>465</sup>

Though the office of sheriff existed previously, it was shaped into much of the office it resembles today by King Alfred the Great of England. Alfred’s reign occurred during the Danes’ (also commonly referred to as Vikings) invasion of England in the late 700s. After driving the Danes out of southern English territory and reestablishing a large portion of the country’s sovereignty, Alfred sought to strengthen England’s national security. One of his reforms was the office of the sheriff. The sheriff was a powerful officer who retained both judicial and executive authority. The role of the sheriff was to call to arms and lead the militias of their respective county or shire if necessary. Sheriffs also collected taxes, investigated possible murders, and executed royal writs. During this time, the sheriff also presided over court cases of both civil and criminal nature. Some have suggested that “the sheriff was more akin to a judge than a law enforcement officer...”<sup>466</sup>

After the Norman Conquest in 1066, a few innovations were made to the office of sheriff. First, as a result of the Magna Carta,<sup>467</sup> sheriffs no longer had judicial authority. Second, Norman reform made the office of sheriff an appointed and not elected position; an innovation that the American colonies would later reject when fashioning their own systems of sheriffs. Some historians have oppositely claimed that after being stripped of their judicial power, sheriffs assumed “the heir of errand boy for the royal courts.”<sup>468</sup> However, a plurality of historians have agreed that this characterization is exaggerated and that despite the changes, sheriffs were “men with powerful local connections, and often powerful royal connections.”<sup>469</sup> This viewpoint has been supported by the fact that “[t]he thirteenth-century sheriff was the head within his shire of a complex system of local government centered on the county town, often on the royal castle, and employing an undersheriff and a large staff of bailiffs or serjeants and clerks.”<sup>470</sup> Further, the sheriff in this period was still viewed as the chief law enforcement officer of his shire or county, as “the only persons who [were] specially bound to arrest malefactors are the sheriff, his bailiffs and servants and the bailiffs of those lords who have the higher regalities.”<sup>471</sup>

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<sup>465</sup> David Kopel, “The Posse Comitatus and the Office of Sheriff: Armed Citizens Summoned to the Aid of Law Enforcement,” *The Journal of Criminal Law and Criminology* 104, no. 4 (Feb. 2015), p. 761.

<sup>466</sup> *Commonwealth v. Leet*, 641 A.2d 299, 301 (Pa. 1994).

<sup>467</sup> The Magna Carta is a charter of English liberties granted by King John in 1215, under threat of civil war and reissued, with a collection of amendments, in 1216, 1217, and 1225. The Magna Carta declared the sovereign to be subject to the rule of law and documented the liberties held by “free men,” which ultimately laid the foundation for individual rights in Anglo-American jurisprudence.

<sup>468</sup> *Supra*, n. 465.

<sup>469</sup> *Ibid.*

<sup>470</sup> *Ibid.*

<sup>471</sup> Pollock and Maitland, *The History of English Law: Before the Time of Edward I*, Cambridge, Boston, 2d ed., Vol. II, (1899) at p. 582.

The 17<sup>th</sup> century English iteration of the office of sheriff was both an “autonomous and indivisible” role.<sup>472</sup> Though appointed by a monarch, a sheriff practiced full autonomy over his choices in employment and the duties of those he chose to employ. During this time, sheriffs were also no longer allowed to also be attorneys while in office. Sheriffs continued in their military capacity in the 17<sup>th</sup> century, however, as time went on the office of the sheriff was slowly stripped of many of its duties, eventually being whittled down to its current role, which is mostly ceremonial.<sup>473</sup>

In the American colonies, the settlers used the English sheriff model with one important change: American sheriffs were elected after 1652 when the Royal Governor of Virginia asked each county to choose its sheriff and one county, Northampton County, left the choice up to its residents. Since the colonies were established following the Magna Carta, sheriffs in America never held judicial authority. Though their authority was established under the crown, American sheriffs had even more independence than their European counterparts because of their distant proximity to royal power. They were informally granted some of the functions of early English sheriffs, such as the prime keeper of the peace in a region. With their direct election, American sheriffs enjoyed more influence in local governance.<sup>474</sup>



Source: “Colonial Sheriff” by Granger, c1680.

The American sheriff had power over the *posse comitatus*, a group of armed citizenry mobilized by the sheriff to help him execute his authority. The use of the *posse comitatus* to enforce the will of the royals generated united opposition within the colonial counties to what many viewed plainly as English oppression. The English responded to this mounting opposition by implementing gun control, precipitating the conflicts at Lexington and Concord and the eventual American Revolution. Throughout America’s infancy, the *posse comitatus* was invoked to protect the borders of new states encroaching upon wilderness, such as enforcing the terms of

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<sup>472</sup> *Ibid.*

<sup>473</sup> *Ibid.*

<sup>474</sup> *Ibid.*

the Louisiana Purchase. Around the time of the Civil War, local governments began using the *posse comitatus* to mask overreaches of the military, arguing that the soldiers were individuals acting on behalf of their community, not the federal government.<sup>475</sup> After the war and some ensuing debate about the role of the *posse comitatus*, it was once again seen as “the power of the county to be used in support of popularly-supported laws.”<sup>476</sup>

In Pennsylvania, sheriffs have always been designated as county officers who are elected in municipal elections for four year terms, beginning on the first Monday of January after the election.<sup>477</sup> Historically, the Commonwealth’s sheriffs have served in the capacity of peace officer, tasked with the duty to keep the peace and quell riots and disorder. The responsibilities of Pennsylvania’s sheriffs and their deputies have been associated directly with the courts. As such, they retain jurisdiction to make arrests anywhere in the county they are elected, to make searches of premises, and to seize items or property owned or used in violation of the law within their respective counties, generally pursuant to court order. Sheriffs have also been called upon to remove certain nuisances, and issue licenses to sell or to carry firearms.<sup>478</sup>

### *Legal Authority*

The office of the sheriff derives its foundational legal authority from the Pennsylvania Constitution. Specifically, Article IX, Section 4 of the constitution provides that “[c]ounty officers shall consist of commissioners, controllers ... *sheriffs* ... and such others as may from time to time be provided by the law.”<sup>479</sup> The Supreme Court of Pennsylvania has acknowledged that while the state constitution unambiguously establishes sheriffs as county officers, “it does not describe the duties of a sheriff.”<sup>480</sup> While the County Code and Second Class County Code provides some provisional language for sheriffs and deputy sheriffs, said provisions generally cover powers of appointment and qualifications of deputy sheriffs.

Consequently, the General Assembly limited the powers and duties of sheriffs to those “authorized or imposed upon them by statute.”<sup>481</sup> However, statutory law provides only that a sheriff is mandated to “serve process and execute orders directed to him pursuant to law.”<sup>482</sup> The lack of further guidance from statutory law has resulted in the sheriff’s duties, powers, and scope of authority being shaped largely by precedence established at common law.

Under common law, the duties of the sheriff consisted of maintaining the peace within his or her respective county, apprehending and committing to prison those who broke the peace, and maintaining law and order. In the role of “peacekeeper” or “peace officer,” the sheriff was the principal conservator of peace.<sup>483</sup> With limited statutory guidance on specific duties and roles, the

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<sup>475</sup> *Supra*, n. 475.

<sup>476</sup> *Ibid.*

<sup>477</sup> *Ibid.*

<sup>478</sup> Michael Clark, “Sheriff’s History,” PA Sheriffs’ Association, last accessed on October 9, 2020, <https://www.pasheriffs.org/sheriff-history/>.

<sup>479</sup> PA CONST., Art. IX, § 4. *Supra*, n. 475.

<sup>480</sup> *Kopko v. Miller*, 892 A.2d 766, 770 (Pa. 2006).

<sup>481</sup> *Commonwealth v. Copenhaver*, 200 A.3d 956, 961 (Pa. Sup. 2018).

<sup>482</sup> 42 Pa.C.S. § 2921.

<sup>483</sup> *Kopko v. Miller*, 892 A.2d 766, 771-72 (Pa. 2006).

courts have weighed in on a sheriff's ability to enforce the motor vehicle code, as well as make arrests. In addition, the courts have also distinguished sheriffs and their deputies from police officers in an effort to limit their power. The court's role in shaping the duties and authority of sheriffs and their deputies will be examined in greater detail later in this section.

It is important to note, that amendments to the Pennsylvania Constitution in 1968 abolished all county offices in Philadelphia, with the city granted the authority to perform all functions of county government. Several pre-1968 statutes existed regarding first class county sheriffs.<sup>484</sup> By operation of amendments to the Pennsylvania Constitution in 1968, these became applicable to first class city sheriffs. Since at least as early as the General County Law of 1929, counties of the first class have been exempted from statutes governing other counties. The General County Law, and its successor statutes, the County Code of 1955<sup>485</sup> and the Second Class County Code of 1953,<sup>486</sup> have included provisions regarding the powers and duties of sheriffs and deputy sheriffs in second through eighth class counties.

### *Appointing Authority*

As mentioned previously, sheriffs are elected officials in Pennsylvania and are not appointed by any state official or branch of government. However, sheriffs do have the authority themselves to appoint deputies to assist them in their duties.<sup>487</sup>

### *Deputy Sheriffs*

Whenever the sheriff is required by law to act in person under or by virtue of any writ or process issued by the courts, the sheriff may act either in person or by a regularly appointed deputy sheriff.<sup>488</sup> Like the sheriff, an appointed deputy sheriff also maintains full criminal and civil jurisdiction in the county they are appointed to serve, with the common law authority to conduct a traffic stop, direct traffic, work vehicle crashes, serve civil process, and even arrest for any onsite crimes or violations. Deputies are required to undergo training mandated in the Sheriff's and Deputy Sheriffs' Education and Training Act. In order to enforce specific laws within the Commonwealth, a deputy must receive training similar to police officers.<sup>489</sup>

### *Duties, Scope of Authority, and Jurisdiction*

Statutory law authorizes the sheriff, as a county peace officer, to serve process and execute orders directed to him or her pursuant to law. Sheriffs and their deputies, as an arm of the courts, also make arrests, conduct searches of premises, and seize property used in violation of the law

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<sup>484</sup> *Supra*, n. 479.

<sup>485</sup> Act of August 9, 1955 (P.L. 323, No. 130), known as the County Code.

<sup>486</sup> Act of July 28, 1953 (P.L. 723, No. 230), known as the Second Class County Code.

<sup>487</sup> *Supra*, n. 478.

<sup>488</sup> Act of August 9, 1955 (P.L. 323, No. 130), § 101 as amended by the Act of October 24, 2018, P.L. 931, No. 154, § 22; 16 P.S. § 1202-A; Act of May 32, 1974 (P.L. 296, No. 94), § 1; 16 P.S. § 4221.1. – Deputy sheriffs in first class cities are governed by several early 20<sup>th</sup> century statutes, which are cited in the proposed codification of 44 Pa.C.S. Ch. 74, Sub. A included in this report.

<sup>489</sup> *Supra*, n. 478.

within his or her county of jurisdiction.<sup>490</sup> They also issue licenses for selling or carrying firearms.<sup>491</sup>

A sheriff's authority to arrest an individual was reviewed by the Supreme Court of Pennsylvania in the 1994 court case of *Commonwealth v. Leet*. In this case, the court held that although sheriffs and their deputies are not police officers under the motor vehicle code, "common law powers of the sheriff include the power to enforce the motor vehicle code, [even though no provision of the code grants power to sheriffs to enforce it] and that such powers have not been abrogated by statute or otherwise."<sup>492</sup> According to the court, sheriffs and deputies may perform an arrest for motor vehicle violations *which amount to breaches of the peace* committed in their presence.<sup>493</sup> The court in this case notably failed to identify violations which could amount to "breaches of the peace" committed in a sheriff's presence. The Supreme Court acknowledged this failure in its 2013 court opinion in *Commonwealth v. Marconi* when it wrote "[a]t the very least, *Leet* should have considered the consequences of overlaying undefined breach-of-the-peace litmus to determine arrest authority, over such a more refined statutory scheme."<sup>494</sup>

In the 2002 case of *Commonwealth v. Lockbridge*, the Supreme Court upheld a Superior Court holding that a sheriff or deputy sheriff had the authority to stop and cite a driver for driving under a suspended license. It is worth noting that while some courts have subsequently cited this holding to affirm that driving under a suspended license constitutes a "breach of the peace," the court's holding was largely based on Pennsylvania Rules of Criminal Procedure authorizing sheriffs and their deputies to stop for such violations.<sup>495</sup>

In the 2018 case of *Commonwealth v. Copenhaver*, the Superior Court held that driving with an expired registration, a summary violation of the vehicle code, was a "breach of the peace" for which a sheriff or deputy was legally authorized to stop and cite a driver. The court underscored its prior opinion in *Lockbridge* and opined that because it previously determined that driving while under suspension is a breach of the peace, it cannot logically say that driving with an expired registration is not.<sup>496</sup> In 2020, the Supreme Court vacated the Superior Court's previous order in *Copenhaver*, holding that "operation of motor vehicle with an expired registration sticker, standing alone, did not comprise a breach of the peace for purposes of deputy sheriff's common law authority to enforce the Vehicle Code."<sup>497</sup>

However, the court specifically limited the duties and scope of authority for sheriffs in the 2006 case of *Kopko v. Williams*. In this case, the Pennsylvania Supreme Court held that sheriffs were not investigative or law enforcement officers pursuant to the Wiretapping Act, and thus, they were not authorized to receive training related to wiretapping. Moreover, the court supported its holding by reasoning that sheriffs had no statutory or common law source of authority authorizing

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<sup>490</sup> *Ibid.*

<sup>491</sup> 18 Pa. C.S. § 6109.

<sup>492</sup> *Commonwealth v. Leet*, 641 A.2d 299, 301 (Pa. 1994); 75 Pa.C.S. § 6308(a).

<sup>493</sup> *Ibid* at 303 (Emphasis Added).

<sup>494</sup> *Commonwealth v. Marconi*, 64 A.3d 1036, 1049 (Pa. 2013).

<sup>495</sup> *Commonwealth v. Lockbridge*, 781 A.2d 168, 169 (Pa. Super. 2001) *affirmed on other grounds*, 810 A.2d 1191 (Pa. 2002).

<sup>496</sup> *Commonwealth v. Copenhaver*, 200 A.3d 956, 963 (Pa. Super. 2018).

<sup>497</sup> *Commonwealth v. Copenhaver*, 229 A.3d 242, 247 (Pa. 2020).

them to perform such investigative or law enforcement duties with respect to the crimes warranting the conducting of electronic surveillance.<sup>498</sup> However, the court did decline to extend a portion of the rationale behind this holding for the 2008 criminal case of *Commonwealth v. Baumhammers*.<sup>499</sup>

### *Qualifications*

In order to be eligible to pursue a career as a deputy sheriff in Pennsylvania under the County Codes and first class sheriff statutes, there are some minimum employment requirements that must be satisfied. These minimum requirements include that a candidate:

- Must be a citizen of the U.S. and 18 years of age or over.
- Must have resided in the relevant county for a period of at least two years immediately preceding the filing of an affidavit for appointment to deputy sheriff.
- Must be a high school graduate or have received a secondary school diploma on the basis of general education development (GED).
- Must have never been convicted of a crime involving moral turpitude under the laws of Pennsylvania or of any other state or of the U.S.
- Must have not, for a period of two years immediately preceding the filing of his or her affidavit, acted either for himself or herself or as the agent or employee of another in any labor dispute, or hired himself or herself out or performed any service as a private detective, private policeman or private guard in any labor dispute, or received any fee or compensation whatsoever for acting as a private detective, private policeman or private guard in any labor dispute, or conducted the business of a private detective agency or of any agency supplying private detectives, private policemen or private guards, or advertised or solicited any such business in this Commonwealth in connection with any labor dispute.<sup>500</sup>

### *Required Training*

Sheriffs and deputy sheriffs have been required to satisfy all training obligations established by the Sheriff and Deputy Sheriff Education and Training Act of 1984, as amended in 2014. The statutory provisions pertaining to the Sheriff and Deputy Education and Training Act were recently codified in November 2020.<sup>501</sup> The Sheriff and Deputy Sheriff Education and Training Board has the authority to craft and maintain the education and training program required for both sheriffs and deputy sheriff recruits. Every sheriff must assure that each full-time or part-

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<sup>498</sup> *Kopko v. Miller*, 892 A.2d 766, 771-72 (Pa. 2006); 18 Pa.C.S. § 5702.

<sup>499</sup> *Commonwealth v. Baumhammers*, 960 A.2d 59 (Pa. 2008).

<sup>500</sup> Act of July 28, 1953 (P.L. 723, No. 230), art. XII, § 1206; 16 P.S. § 4206; Act of August 9, 1955 (P.L. 323, No. 130); Act of June 4, 1937 (P.L. 1595, No. 324).

<sup>501</sup> Act of November 25, 2020 (P.L. \_\_, No. 134); adding Ch. 74 Sub. B to Title 44 of the Pennsylvania Consolidated Statutes.

time deputy he or she employs who has less than five years of experience on the effective date of this act receives the training provided in the Act.<sup>502</sup>

Members of the board must include the Attorney General, two judges, two sheriffs, three individuals with at least eight years of deputy sheriff experience, one educator with experience with curriculum design, and one county commissioner. Besides the Attorney General, all members are appointed by the Governor to serve three year terms. When a member vacates the role which made them eligible for the position, they immediately terminate their board membership. The board elects a chair out of the members, who may serve successive terms. The board must meet at least four times a year and can hold additional meetings at the request of three members. A quorum for a board meeting requires five members.<sup>503</sup> Pursuant to state statute, the programs and curriculum developed and implemented by the board must include not less than 160 hours of training on content determined by the board.<sup>504</sup>

The current Basic Training set in place by the board is a 19-week, 760 hour course with additional online supplements that covers topics including “civil and criminal law and procedure, court security, prisoner transport, mechanics of arrest, crisis intervention, professional development, self-defense, first aid and firearms.”<sup>505</sup> This program also includes a minimum fitness standard that tests for a vertical jump, one-minute sit-up, 300 meter run, maximum push-up, and 1.5 mile run. Deputy Sheriffs must undergo the same training as police officers in the Commonwealth before being allowed to enforce motor vehicle laws.<sup>506</sup>

The board is also required to develop 20 hours of continuing education for sheriffs and deputy sheriffs to complete in two year intervals.<sup>507</sup> For those deputy candidates with previous education, training or experience in the field, the board may exercise its discretion to reduce the hours of training required for an individual if said candidate acquired knowledge or skill equivalent to that provided by the program. If an individual does not fulfill the continuing education requirements, they will be ineligible for salary and other compensation for their work as sheriff or deputy sheriff.<sup>508</sup>

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<sup>502</sup> 44 Pa.C.S. § 7428(A).

<sup>503</sup> 44 Pa.C.S. § 7423.

<sup>504</sup> 44 Pa.C.S. § 7425.

<sup>505</sup> Pennsylvania Commission on Crime and Delinquency, “Sheriff and Deputy Sheriff Education and Training Board 2018 Annual Report,” p. 8, <https://www.pccd.pa.gov/training/Documents/Deputy%20Sheriffs%20Education%20and%20Training/Reports%20and%20Publications/Annual%20Reports/SDSETB%20Annual%20Report%202018.pdf>, last accessed December 7, 2020.

<sup>506</sup> Sheriff and Deputy Sheriff Education and Training Board, “Physical Fitness Testing,” (Aug. 28, 2018), p. 1, [https://www.pccd.pa.gov/training/Documents/Deputy%20Sheriffs%20Education%20and%20Training/Sheriff%20and%20Deputy%20Sheriff%20Forms/Physical\\_Fitness\\_Standards.pdf](https://www.pccd.pa.gov/training/Documents/Deputy%20Sheriffs%20Education%20and%20Training/Sheriff%20and%20Deputy%20Sheriff%20Forms/Physical_Fitness_Standards.pdf), last accessed December 8, 2020.

<sup>507</sup> 44 Pa.C.S. § 7426.

<sup>508</sup> *Ibid.*

*Right to Carry Firearms*

Sheriffs and their deputies retain the right to carry a firearm concealed without having to obtain a valid and lawfully issued license to carry as is required for regular civilians under the Pennsylvania Uniform Firearms Act. Such right is analogous to that possessed by constables, prison or jail wardens, or their deputies, Pennsylvania State Police, municipal policemen, or other law enforcement officers.<sup>509</sup>

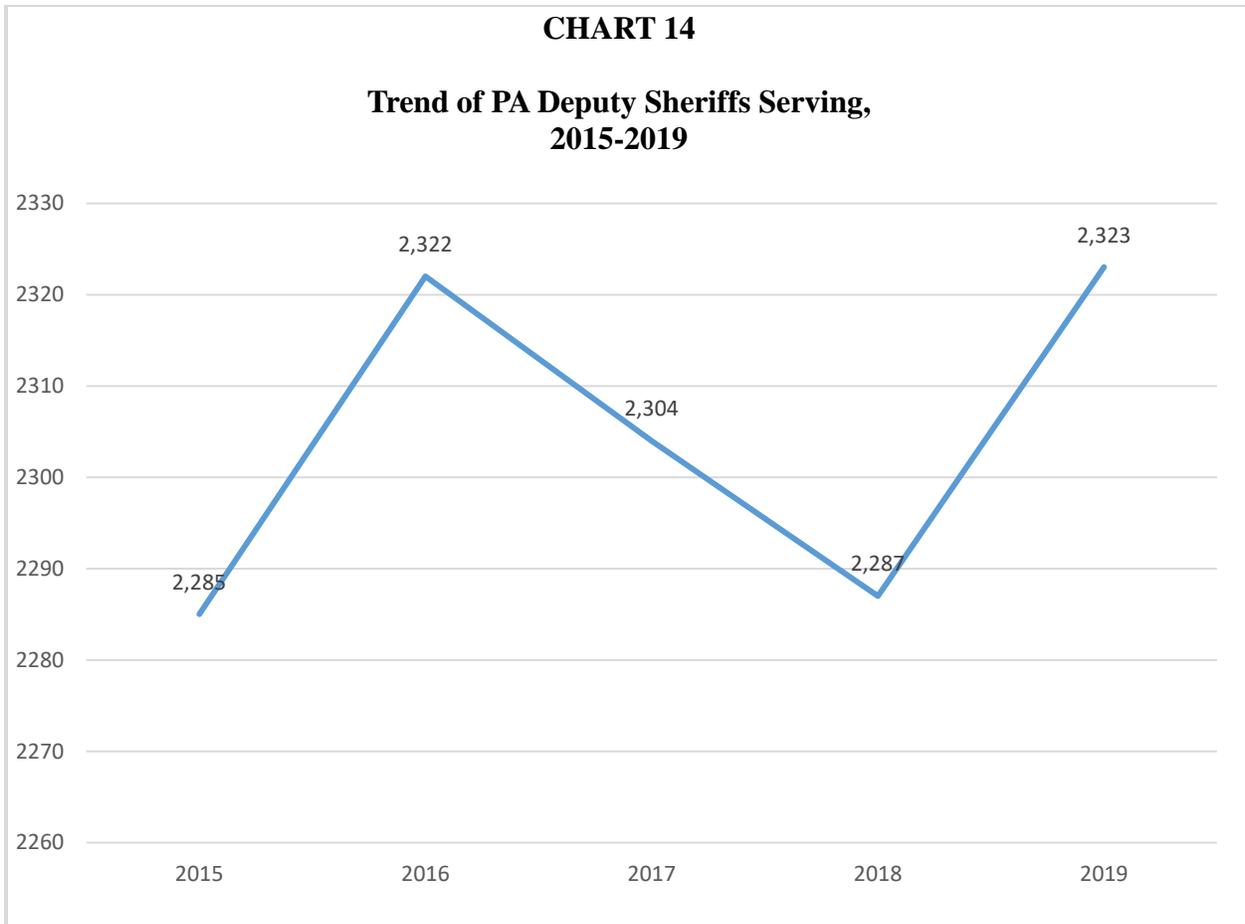
*Number of Individuals Serving*

As of 2020, there were 67 sheriffs serving throughout the Commonwealth, one for each county.<sup>510</sup> In addition, the following table and chart shown below provide data regarding the numbers and trend of individual deputy sheriffs serving within the Commonwealth for the last five years for which data was available.

<b>TABLE 17</b>					
<b>Number of PA Deputy Sheriffs Serving, 2015-2019</b>					
<b>PA Deputy Sheriffs</b>	<b>Year</b>				
	<b>2015</b>	<b>2016</b>	<b>2017</b>	<b>2018</b>	<b>2019</b>
Total	2,285	2,322	2,304	2,287	2,323
Source: Compiled by the Commission Staff based on data from John Pfau, Pennsylvania Commission on Crime and Delinquency.					

<sup>509</sup> 18 Pa.C.S. § 6106(a)(b).

<sup>510</sup> Information provided by John Pfau, Pennsylvania Commission on Crime and Delinquency.



Source: Compiled by the Commission Staff based on data from John Pfau, Pennsylvania Commission on Crime and Delinquency.

### *Real Estate Deputies*

#### *Background*

One of the many duties of a sheriff’s office is the sale of properties foreclosed by court order. Pursuant to state law, this authority is bestowed upon the sheriff’s office – “the enforcement arm of the court.”<sup>511</sup> When a judge enters an order for judicial foreclosure, the court’s writ of execution expressly directs the sheriff to execute the sale of the property.<sup>512</sup> There are two different kinds of sales: tax sales and judicial mortgage foreclosure sales. In tax sales, the money collected through the sale is given to the city to pay the outstanding debt, whereas in judicial mortgage

<sup>511</sup> “Everything You Need to Know about Sheriff Sales,” Philadelphia Sheriff’s Office, accessed June 22, 2020, <https://www.officeofphiladelphiasheriff.com/en/real-estate/how-sheriffs-sales-work>.

<sup>512</sup> *Ibid.*

foreclosure sales the money is given to institutions that the owner is indebted to.<sup>513</sup> When the sheriff's office is directed to execute these sales, a real estate deputy can be appointed to carry out the execution.

### *Legal Authority*

Real estate deputies find their authority in section 1204 of Pennsylvania's Second Class County Code and the Act of April 4, 1929 (P.L. 163, No. 158) for real estate deputies in counties of the first class.

### *Appointing Authority*

Real estate deputies can be appointed by the sheriff to handle the sheriff's duties of real estate sales and distribution.<sup>514</sup> The appointing sheriff may freely revoke the appointment.

### *Duties, Scope of Authority, and Jurisdiction*

A real estate deputy is given all powers and duties provided by law to a sheriff regarding real estate sales. Those duties include the "execution and acknowledgment of sheriff's deeds for real estate upon receipt of the purchase price thereof."<sup>515</sup> The sheriff remains liable for the decisions of a real estate deputy.<sup>516</sup>

### *Qualifications and Required Training*

The qualifications for this position are the same as they are for sheriffs and deputy sheriffs. However, when hiring an individual to fill the real estate deputy role, sheriffs tend to look for individuals with a real estate background.<sup>517</sup>

### *Right to Carry Firearms*

Section 1204 does not provide any specific provisional language about a real estate deputy's legal right to carry firearms while executing his authority, however, it does provide that a real estate deputy "shall have full power to perform all duties incumbent upon the sheriff, in like manner as his chief deputy, with like effect in law as if such official acts had been done by the sheriff in person."<sup>518</sup> This appears to imply that the real estate deputy retains the same authority

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<sup>513</sup> "Overview of the Sheriff Sale Process," Philadelphia Sheriff's Office, accessed June 22, 2020, <https://www.officeofphiladelphiasheriff.com/en/real-estate/how-sheriffs-sales-work/overview-of-the-sheriff-sale-process>.

<sup>514</sup> Act of July 28, 1953 (P.L. 723, No. 230) art. XII, § 1204, known as the Second Class County Code; 16 P.S. § 4204.

<sup>515</sup> *Ibid.*

<sup>516</sup> *Ibid.*

<sup>517</sup> Phone Call on September 9, 2020 with John Pfau, Manager, Bureau of Training Services, Pennsylvania Commission on Crime and Delinquency.

<sup>518</sup> *Supra*, n. 514.

as the sheriff in performing his duties during real estate sales, which would include the same firearms possession rights the sheriff and his deputies retain, *see Sheriffs*.

### *Number of Individuals Serving*

Since real estate deputies are included in the number totals for sheriffs and sheriff's deputies, *see Sheriffs*.

## ***Municipal Police***

### *Background*

Similar to the American constabulary and sheriff systems, municipal policing in the U.S. was closely modeled after the evolution of local policing in England. Like England, the U.S. transformed from a largely rural and agrarian society to one that was increasingly urban and industrialized. Incidentally, crime, riots, and other examples of public unrest became more common as a result. While many in the colonies fought the notion of a standing police force, the level of increasing crime finally ignited a push for a police force in many of the colonies' larger cities.<sup>519</sup>

Prior to the signing of the Declaration of Independence, policing in the American colonies was both informal and communal. The informal and communal policing in the early colonies was the "Watch," or private-for-profit policing, often referred to as "The Big Stick".<sup>520</sup> The watch police system was generally made up of volunteers within the community who had the duty "to warn of impending danger."<sup>521</sup> Night watches began to crop up throughout the 17<sup>th</sup> century, starting with Boston in 1636, New York in 1658, and Philadelphia in 1700. It wasn't until 1833 that Philadelphia created the first day watch.<sup>522</sup> New York followed by instituting a day watch in 1844 to supplement its newly-formed municipal force.<sup>523</sup> Watchmen were paid a fee in both Boston and New York, however, "most officers in colonial America did not receive a salary but were paid by private citizens, as were their English counterparts."<sup>524</sup>

Though it endured for many years, the night watch system was riddled with problems. It often failed to effectively combat crime and it has been said that watchmen often shirked their duties by sleeping or sometimes drinking while on duty.<sup>525</sup> Some historians have even suggested

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<sup>519</sup> Encyclopaedia Britannica, "Early Police in the United States," <https://www.britannica.com/topic/police/Early-police-in-the-United-States>, last accessed on May 26, 2020.

<sup>520</sup> Dr. Gary Potter, "The History of Policing in the United States, Part I," Eastern Kentucky University, *Police Studies Online*, (Jun. 25, 2013), <https://plsonline.eku.edu/insidelook/history-policing-united-states-part-1>, last accessed on May 25, 2020.

<sup>521</sup> Larry Gaines, *et al.*, *Policing in America* (3rd ed.), Cincinnati, Ohio: Anderson Publishing Company, 1999.

<sup>523</sup> *Ibid.*

<sup>524</sup> *Supra*, n. 519.

<sup>525</sup> Olivia B. Waxman, "How the U.S. Got its Police Force," *Time*, (May 18, 2017), <https://time.com/4779112/police-history-origins/>, last accessed on May 26, 2020.

that many of these “volunteers” were “simply attempting to evade military service, were conscript forced into service by their town, or were performing watch duties as a form of punishment.”<sup>526</sup> The watch system of policing continued after the American Revolution.

However, as urban populations continued to swell and the ineffectiveness of the watch system became more apparent, formal publically-funded police departments came into existence – the first being established in Boston in 1838. The next official police department was created in New York City in 1844 with other cities such as New Orleans, Cincinnati, Philadelphia, and Chicago following shortly thereafter. By the end of the 18<sup>th</sup> century, all major U.S. cities had municipal police forces in place.<sup>527</sup>

During their infancy, the departments in these major cities adopted the London Metropolitan Police model. In this model, the police force was organized in a “quasi-military command structure.”<sup>528</sup> Aside from the command structure and public funding, these formal police departments were distinguishable from the old watch system in the following ways: they were all bureaucratic in form; police officers were generally full-time employees, not community volunteers; departments had formal rules and procedures; employment as a police officer was continuous; and departments were accountable to a central governing body.<sup>529</sup>

The intense growth of local municipal police departments within the U.S. has been attributed in part to America’s “ideological commitment to local control over most institutions...”<sup>530</sup> Currently in Pennsylvania, a majority of the Commonwealth’s police forces are within its local municipalities, especially in the southeastern portion of the state. According to the Municipal Police Officer Education and Training Commission (MPOETC), 1,100 of the Commonwealth’s approximately 2,500 municipalities operate their own police departments. In fact, over 50 percent of the Commonwealth’s police are municipal officers, which number approximately 22,691 officers.<sup>531</sup>

### *Legal Authority*

There are numerous types and classifications of municipalities in Pennsylvania, some of which include first class cities; second class cities; first class townships; second class townships; home rule charters, and boroughs. State law grants all municipalities, regardless of their classification or size, the authority to create their own municipal police department. However, certain types of municipalities, such as first class cities, second class cities, and second class A cities are required to provide police services within their municipal jurisdictions.<sup>532</sup>

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<sup>526</sup> *Ibid.*

<sup>527</sup> *Ibid.*

<sup>528</sup> *Ibid.*

<sup>529</sup> Robert J. Lundman, Police and Policing: an Introduction, New York: Holt, Rinehart & Winston, 1980.

<sup>530</sup> *Ibid.*

<sup>531</sup> Phone Call on August, 11, 2020 with Isaac W. Suydam, Director of Training, Municipal Police Officers’ Education and Training Commission.

<sup>532</sup> Pennsylvania Department of Community and Economic Development, “Administering Police Services in Small Communities,” (Feb. 2015), Seventh Edition, p. 5.

Specifically, the controlling legal authority to establish municipal police departments comes directly from Pennsylvania’s various statutory municipal codes such as the First Class City Code,<sup>533</sup> Second Class City Code,<sup>534</sup> Borough Code,<sup>535</sup> First Class Township Code,<sup>536</sup> and Second Class Township Code,<sup>537</sup> to name a few. Each code is different and applies solely to the class of municipality it was enacted for.

These municipal codes generally permit a number of ways that municipalities can provide police services to their residents. For instance, municipalities are given the flexibility to provide police services using their own police department, or by choosing to contract with another municipality’s police department or a regional police department, or they can be a participating member in a regional police department pursuant to Pennsylvania’s Intergovernmental Cooperation Act.<sup>538</sup> For example, section 66507 of the Second Class Township Code provides, “[t]he board of supervisors may make agreements with other municipal corporations in performing governmental powers, duties and functions and in carrying into effect provisions of 53 Pa.C.S. Ch. 23 Subch. A (relating to intergovernmental cooperation).”<sup>539</sup> Section 1202(24) of the Borough Code also authorizes Boroughs to enter into agreements with other political subdivisions ... in performing governmental powers, duties and functions and in carrying into effect provisions of the Intergovernmental Cooperation Act and agreements with the proper authorities of municipal corporations, regional police or fire forces or other public safety or governmental entities created by two or more municipal corporations.<sup>540</sup> Smaller population municipalities without full-time police services tend to receive coverage partially or solely through the Pennsylvania State Police.<sup>541</sup>

### *Appointing Authority*

The appointing authority for police officers, along with the authority to commission a municipal police department, create its budget, and enter it into any cooperative agreements is generally granted to a municipality’s governing body, that is, the group of elected officials tasked with running the municipality. The type of governing body largely depends on the type and classification of the municipality. For example, First Class Townships’ governing bodies are boards of commissioners, whereas Second Class Townships’ governing bodies are usually boards of supervisors, while Boroughs tend to have borough councils. As mentioned above, the authority of such governing bodies is rooted in the statutory provisions of the Borough Code, First Class Township Code, Second Class Township Code, and other municipal codes. For example, section 56502 of the First Class Township Code provides that “the corporate power of a township of the

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<sup>533</sup> 53 Pa.C.S. § 8561 *et seq.*, known as the First Class City Code.

<sup>534</sup> Act of March 7, 1901 (P.L. 20), art. XX, § 1; 53 P.S. § 22101 *et seq.*, known as the Second Class City Code

<sup>535</sup> 8 Pa.C.S. § 101 *et seq.*, known as the Borough Code.

<sup>536</sup> Act of June 24, 1931 (P.L. 1206, No. 331), art. I, § 101; 53 P.S. § 55101 *et seq.*, known as the First Class Township Code.

<sup>537</sup> Act of May 1, 1933 (P.L. 103, No. 69), § 101; 53 P.S. § 65101 *et seq.*, known as the Second Class Township Code.

<sup>538</sup> 53 Pa.C.S. § 2301 *et seq.*

<sup>539</sup> *Supra*, n. 537, § 1502; 53 P.S. § 66507.

<sup>540</sup> *Supra*, n. 535, § 1; 8 Pa.C.S. § 1202(24).

<sup>541</sup> *Supra*, n. 532.

first class shall be vested in the board of township commissioners.”<sup>542</sup> The board has the power to establish, equip, and maintain a police force, and to define the duties of the force.<sup>543</sup>

Another example of this municipal power can be found in section 66901 of the Second Class Township Code (SCTC) which provides “[t]he board of supervisors may by resolution create or disband a police force within the township or, upon the petition of not less than twenty-five registered electors or taxpayers of the township, appoint police officers.”<sup>544</sup> Similarly, section 1121 of the Borough Code provides that a borough’s “[c]ouncil may, by ordinance, establish a police department.”<sup>545</sup> However, once a police department is established in a borough, the mayor has full charge and control of the chief of police and the police force, though the council is still generally in charge of approving police budgets.<sup>546</sup> Third class cities operating under the commission form of government also designate authority to the mayor to head and supervise the police department.<sup>547</sup>

### *Duties, Scope of Authority, and Jurisdiction*

According to state statute, duly employed municipal police officers have the authority to enforce the laws of the Commonwealth or otherwise perform the functions of that office anywhere within his or her primary jurisdiction as to: “(1) [a]ny offense which the officer views or otherwise has probable cause to believe was committed within his or her jurisdiction and (2) [a]ny other event that occurs within his or her primary jurisdiction and which reasonably requires action on the part of the police in order to preserve, protect or defend persons or property or to otherwise maintain the peace and dignity of this Commonwealth.”<sup>548</sup> In addition to an officer’s sworn statutory authority, municipalities may also require the police department to engage in more non-police-related functions such as raising and lowering the flag at the municipal building each day, collecting parking meter money, turning on and off municipal parking lot lights, securing all municipal buildings and property at the close of activity each day, and other administrative acts. Municipalities generally try to avoid delegating these types of activities to the police department as this can often have a negative impact on the department’s ability to engage in its police-related functions, especially in busier municipalities.<sup>549</sup>

Municipal police have authority to enforce the law and carry out their police-related functions (such as exercising arrest authority) within their given municipal jurisdiction. However, municipal police are not always limited to act solely within their municipal boundaries. For instance, the law provides that municipal police officers who are within Pennsylvania, but beyond the territorial limits of their primary jurisdiction, ultimately have the power and authority to enforce the state laws or otherwise perform their duties as if they were enforcing those laws or performing those functions within the territorial limits of their primary jurisdiction in the following cases:

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<sup>542</sup> *Supra*, n. 536, § 1502; 53 P.S. § 56502.

<sup>543</sup> *Ibid.* § 1502; 53 P.S. § 56505.

<sup>544</sup> *Supra*, n. 537, § 1502; 53 P.S. § 66901.

<sup>545</sup> 8 Pa.C.S. § 1121(a).

<sup>546</sup> 8 Pa.C.S. § 1123.1(a).

<sup>547</sup> *Supra*, n. 532.

<sup>548</sup> 42 Pa.C.S. § 8952.

<sup>549</sup> *Supra*, n. 532, pp. 6-7.

- Where the officer is acting pursuant to a court order or order issued by a district magistrate located within the judicial district wherein the officer's primary jurisdiction is situated, or where the officer is otherwise acting pursuant to the requirements of the Pennsylvania Rules of Criminal Procedure, consent of the chief law enforcement officer, or a person authorized by him to give consent, of the police agency in the municipality wherein the warrant is to be served.
- Where the officer is in hot pursuit of any person for any offense committed, or which he or she has probable cause to believe was committed, within his or her primary jurisdiction and for which the officer continues in fresh pursuit of the person.<sup>550</sup>
- Where the officer:
  - has been requested to aid or assist a Federal, State or local law enforcement officer or park police officer;
  - has probable cause to believe that a Federal, State or local law enforcement officer or park police officer is in need of aid or assistance; or
  - has been requested to participate in a Federal, State or local task force and participation has been approved by the police department that employs the officer.
- Where the officer has obtained the prior consent of the chief law enforcement officer, or a person authorized by him to give consent, of the police agency providing police services to a political subdivision beyond that officer's primary jurisdiction.
- Where the officer is on official business and views an offense, or has probable cause to believe that an offense has been committed, and makes a reasonable effort to identify himself as a police officer and which offense is a felony, misdemeanor, breach of the peace or other act which presents an immediate clear and present danger to persons or property.
- Where the officer views an offense which is a felony, or has probable cause to believe that an offense which is a felony has been committed, and makes a reasonable effort to identify himself as a police officer.<sup>551</sup>

When exercising any power or authority over any person or event pursuant to the scenarios above, the officer must relinquish authority upon the request of the chief law enforcement officer, or a person authorized by him or her to make the request, of the police agency providing primary police services in the municipality.<sup>552</sup>

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<sup>550</sup> 42 Pa.C.S. § 8953.

<sup>551</sup> *Ibid.*

<sup>552</sup> *Ibid.*

### *Qualifications and Required Training*

The Municipal Police Officers' Education and Training Commission (MPOETC) is authorized to establish a municipal police officers' education and training program which in-turn is administered by the Pennsylvania State Police (PSP).<sup>553</sup> The MPOETC is comprised of 20 members, some of which include the Commissioner of the PSP, who shall serve as chairman of the commission; the Secretary of Community and Economic Development; the Attorney General; and the police commissioner of a city of the first class or his designee.<sup>554</sup>

MPOETC minimum qualifications to become a police officer candidate in Pennsylvania provide that candidates must:

- Be at least 18 years of age.
- Have a high school diploma or GED.
- Be a U.S. citizen.
- Not have a record of any disqualifying criminal offenses.
- Be able to read at minimum a 9<sup>th</sup>-grade level.
- Have visual acuity of at least 20/70 correctable to 20/20.
- Score in at least the 30<sup>th</sup> percentile in physical fitness as established through the administration of the Nelson-Denny Reading Test.
- Be personally examined by a physician, physician's assistant, or certified nurse practitioner who is licensed in Pennsylvania. The examination must include the following:
  - Applicants are free from the addictive or excessive use of either alcohol or drugs as determined using current laboratory testing procedures.
  - Applicants are free from the use of illegal controlled substances determined using current laboratory testing procedures.
  - Applicants' physical condition is such that applicants could reasonably be expected to withstand significant cardiovascular stress.
  - Applicants are free from any debilitating conditions such as tremor, incoordination, convulsion, fainting episodes or other neurological conditions which may affect the applicants' ability to perform as police officers.

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<sup>553</sup> 53 Pa.C.S. § 2161.

<sup>554</sup> 53 Pa.C.S. § 2163(a)(1)(i)-(iv).

- Applicants have visual acuity of at least 20/70, uncorrected in the stronger eye, correctable to at least 20/20; and at least 20/200, uncorrected in the weaker eye, correctable to at least 20/40. In addition, the applicant must have normal depth and color perception and be free of any other significant visual abnormality.
- Applicants have audio acuity sufficient to distinguish a normal whisper at a distance of 15 feet. The test must be independently conducted for each ear while the tested ear is facing away from the speaker and the other ear is firmly covered with the palm of the hand. The applicant may not use a hearing aid or other aid to perform the test. If the applicant fails this test, the applicant is required to take and pass a decibel audio test.
- Applicants may not be missing any extremities, including digits, which would prevent performance of required police duties or meeting minimum training requirements.
- Applicants are free from any other significant physical limitations or disabilities which would, in the physician's opinion, impair the applicant's ability to perform the duties of a police officer or complete the required minimum training requirements.
- Be personally examined by a Pennsylvania licensed psychologist and found to be psychologically capable to exercise appropriate judgment or restraint in performing the duties of a police officer.
- Be evaluated to determine physical fitness using the standards developed by the Cooper Institute for Aerobics Research in Dallas, Texas. Each applicant can score no lower than the 30th percentile of the Cooper standards, which coincides with the 30th percentile of the general population, in each of the required evaluations to be eligible for employment. The required evaluations are as follows:
  - 1.5 mile run.
  - 300 meter run.
  - One repetition bench press.
  - One minute sit ups.
- Certify whether they have taken a physical examination or psychological evaluation conducted in conjunction with an application for police employment within the previous year and the outcome of the examination or evaluation.
- Be subject to a thorough background investigation conducted by the applicant's employing police department. The investigation shall include the following:

- A criminal history check including the submission of fingerprints to the Central Repository for the Commonwealth and to the Federal Bureau of Investigation.
- A check of the applicant's credit history.
- Personal interviews conducted with at least 3 people that have personal knowledge of the applicant but are not related to the applicant.
- Interviews of the applicant's employers, if any, for the past 5 years to determine the applicant's work history.
- A check of the applicant's driving record verifying that the applicant has a valid driver's license.<sup>555</sup>

If an individual meets all the minimum qualifications and procedures, he or she must successfully complete a basic police training course given at a Commission-certified school or obtain a waiver of training. Basic training courses include the following subject areas:

- Pennsylvania criminal law.
- Pennsylvania Rules of Criminal Procedure.
- Pennsylvania Vehicle Code.
- Antisocial behavior.
- Professional relations.
- Physical conditioning.
- Human relations skills.
- Application of force.
- Firearms training.
- Patrol procedures and operations.
- Investigations.
- Communications.
- Handling violent and dangerous people.
- Custody.
- First aid and CPR.
- Operation of patrol vehicle.
- Other subjects the Commission deems necessary.<sup>556</sup>

A breakdown of courses and classroom hours is illustrated in the following tables:

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<sup>555</sup> 37 Pa. Code § 203.11(a)(1)-(10).

<sup>556</sup> 37 Pa. Code § 203.51(b)(1)-(17).

**TABLE 18**

**MPOETC 2020 Basic Police Syllabus (20190712)**

Curriculum Sections	Classroom	Practical	Total Hrs	Test #	# Questions	Module
<b>MODULE 1</b>						
<b>01. Introduction to the Academy</b>			<b>6</b>			<b>1</b> (200) (250)
a. Academy Mission	1			N/A		
b. Academy Objectives	1			N/A		
c. Academy Rules and Regulations	1			N/A		
d. Learning and Study Skills	2			1	50 Q	
e. Role and Function of MPOETC	1			1		
<b>02. Introduction to Law Enforcement in PA</b>			<b>28</b>			
a. History and Principles of Law Enforcement	2			1		
b. Ethics and Moral Issues	8	4		1		
c. Community Oriented Policing and Problem Solving	8			1		
d. PA Criminal Justice System	2			1		
e. Report Writing & Notes	4			1		
<b>03. Laws and Criminal Procedures</b>			<b>119</b>			
a. Constitutional Law	2			2	50 Q for T2 20 Q-OB T3	
b. Authority and Jurisdiction	2			2		
c. Criminal Law	36			2 & 3		
d. Criminal Procedure and Laws of Arrest	24	8		4	50 Q	
e. Search and Seizure	24	8		5	50 Q	
f. Admissions and Confessions	2			6	10 Q	
g. Civil Laws	4			6		
h. Liquor Laws	1			6		
i. Use of Force in Law Enforcement	8			7		
<b>MODULE 2</b>						<b>2</b> (176) (220)
<b>04. Juveniles</b>			<b>8</b>			
a. Juvenile Law and Justice	8			8	10 Q	
<b>05. Human Relations</b>			<b>17</b>			
a. Perceptions of Human Behavior and Communications	10			9	30 Q	
b. Cultural and Religious Considerations	3			9		
c. Personal Bias and Procedural Justice	4			9		
<b>06. Responding to Special Needs</b>			<b>22</b>			
a. Behavior Management and Crisis Intervention	6	2		10	30 Q	
b. Recognizing Special Needs	8			10		
c. Mental Illness	6			10		
<b>07. Homeland Security</b>			<b>18</b>			
a. Overview of Homeland Security	4			11	30 Q	
b. Citizenship Issues	2			11		
c. Assessing and Responding to Threats of Terrorism	4			11		
d. ICS/NIMS	6	2		N/A		
<b>08. Vehicle Code Enforcement</b>			<b>64</b>			
a. Vehicle Code and Enforcement	40			12 & 13	50 Q for T12 20 Q-OB T13	
b. DUI Enforcement and Prosecution	24			12		
<b>09. Crash Investigation</b>			<b>27</b>			
a. Crash Investigation & Scene Management	16	6		14	50 Q	
b. Hazardous Materials and Environmental Crimes	5			14		
<b>MODULE 3</b>						
<b>10. Patrol Procedures and Operations</b>			<b>105</b>			<b>3</b> (216) (270)
a. Overview of Patrol Procedures	2			15	50 Q	
b. Patrol Activities and Incidents	24			15		
c. Vehicle Stop Techniques	8	14		15		
d. Crimes in Progress	8			16	50 Q	
e. Crowd Control and Civil Disorder	2			16		
f. Domestic Violence	8			16		
g. Gangs and Transient Criminals	8			16		
h. Disguised Weapons	5			17	50 Q	
i. Active Assault	6	16		17		
j. Ethnic Intimidation & Bias Crimes	2			17		
k. Radio Procedures	2			17		

Source: MPOETC Training Guide accessed at <https://mpoetc.psp.pa.gov/training/Documents/Revised%20Training%20Documents/Basic%20Police%20Officer%20Training/Basic%20Police%20Training%20Syllabus.pdf>

TABLE 18 - Continued

MPOETC 2020 Basic Police Syllabus (20190712)

Curriculum Sections	Classroom	Practical	Total Hrs	Test #	# Questions	Module
<b>11. Criminal Investigation</b>			<b>53</b>			<b>3</b> (216) (270)
a. Crime Scenes and Evidence Collection	10	8		18	30 Q	
b. Interview and Interrogation	8	4		18		
c. Identification of Suspects	2			19	50 Q	
d. Crimes against People	2			19		
e. Crimes Against Property	1			19		
f. Injury and Death Cases	2			19		
g. Sexual Offenses and Human Trafficking	4			19		
h. Crimes Against Children	4			19		
i. Crimes Against the Elderly and Care-Dependent People	4			19		
j. Technology & Social Media	2			19		
k. Surveillance	2			19		
<b>12. Drug Law Enforcement</b>			<b>14</b>			
a. Controlled Substance, Drug, Device and Cosmetic Act	2			20	30 Q	
b. Drug Identification	8			20		
c. Clandestine Labs	4			20		
<b>13. Case Presentation</b>			<b>16</b>			
a. Courtroom Testimony and Demeanor	10	6		21	10 Q	
<b>MODULE 4</b>						
<i>Module 4 consists of classroom instruction and practical skills instruction. Completion of each Volume requires that the cadet successfully pass both the academic tests associated with classroom instruction and successfully demonstrate practical skills as evaluated on the corresponding skills checklist. Failure of a skills evaluation results in dismissal from the academy.</i>						
<b>14. Operation of Patrol Vehicles</b>			<b>20</b>			<b>4</b> (168) (210)
a. Emergency Vehicle Operation	20	**		22	10 Q	
<i>Successful completion of Driving Skills Checklist (**time not specified)</i>					20 PRAC	
<b>15. Physical and Emotional Readiness</b>			<b>84</b>			
a. Health and Wellness	4			23	20 Q	
b. Emotional Health, Stress Management, and Resiliency Training	8			23		
c. Physical Fitness Training and Testing Requirements		72		N/A		
<i>Successful completion of Final Physical Fitness Assessment</i>					20 PRAC	
<b>16. Defensive Tactics</b>			<b>66</b>			
a. Tactical Self Defense		58		24	10 Q	
b. Less Lethal Weapon Familiarization	3	5		24		
<i>Successful completion of Defensive Tactics Performance Evaluation</i>					20 PRAC	
<b>17. Firearms</b>			<b>124</b>			
a. Handgun	6	68		25	20 Q	
b. Shotgun	2	16		25		
c. Introduction to Patrol Rifle	4	20		25		
d. Stress Shooting Course		8		N/A		
<i>Successful completion of all Firearms Skills Checklists</i>					20 PRAC	
<b>18. Emergency Response Training</b>			<b>40</b>			
a. First Aid, CPR, and AED	8			26	20 Q	
b. Opioid Overdoses and Management	2			26		
c. Tactical Medicine	6	24		26		
<i>Successful completion of Basic CPR/AED and First Aid Certification</i>					20 PRAC	
<b>19. Handling Arrested Persons</b>			<b>28</b>			
a. Mechanics of Arrest, Restraint and Control	8	8		27	10 Q	
b. Transporting Prisoners	4			27		
c. In-Custody Risks	4	4		27		
<i>Successful completion of Handling Arrested Persons Performance Evaluation</i>					20 PRAC	
<b>MODULE 5</b>						
<b>20. Scenarios and Practical Exercises</b>			<b>**</b>			<b>5</b>
a. Final Scenarios (Each cadet must complete all required scenarios)		**				
<i>Successful completion of Final Scenarios is required for Graduation (**time not specified)</i>						
<b>Total Time (**Excludes V14 and V20 hours)</b>	<b>498</b>	<b>361</b>	<b>859</b>			

Source: MPOETC Training Guide accessed at <https://mpoetc.psp.pa.gov/training/Documents/Revised%20Training%20Documents/Basic%20Police%20Officer%20Training/Basic%20Police%20Training%20Syllabus.pdf>

MPOETC is also required to publish requirements for police firearms qualification.<sup>557</sup> To pass, each officer must obtain a minimum score of 75 percent for each firearms course.<sup>558</sup> Moreover, MPOETC requires that all certified officers complete annual qualification on a police firearms course with any firearms authorized for use, including personal weapons.<sup>559</sup> A failure to meet MPOETC standards for firearms qualification can lead to revocation of certification.<sup>560</sup>

Beginning in 2020, MPOETC started requiring that all certified municipal police officers qualify on a standardized course of fire for duty weapon (handgun) qualification. The course is made up of two phases and is virtually analogous to the course required in the basic training program except that it reduces the number of rounds from 60 to 50-rounds and has been modified to streamline use at the department level. The course also requires officers to use duty ammunition for the first phase of the course and also provides accommodation for departments who are required to qualify on reduced-distance ranges.<sup>561</sup>

MPOETC also provides a modified course that is intended to be used for back-up duty weapons or off-duty weapons if the department chooses to qualify its officers on them. In this modified course, the maximum shooting distance is reduced from 25 to 15 yards to accommodate short barreled handguns. The course is also intended to qualify retired officers.<sup>562</sup>

For rifles and shotguns, the qualifications must be completed on a generally accepted law enforcement qualification course. An officer assigned a rifle or shotgun should qualify with that weapon. In addition, all officers authorized to pull firearms from armories that contain such firearms must also qualify on each weapon system or platform (AR, etc.) but not on each individual weapon.<sup>563</sup>

Basic academy firearms training and qualifications are mandated to be performed by Municipal Police Instructors employed by certified police academies. Furthermore, annual firearms qualification for in-service police officers must be conducted by Certified Law Enforcement Firearms Instructors. To conduct firearms training, firearms instructors must successfully complete firearms instructor training and after the completion of their training, they can submit an application to be approved by MPOETC.<sup>564</sup>

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<sup>557</sup> 37 Pa. Code § 203.12(3)(i).

<sup>558</sup> 37 Pa. Code § 203.11(11)(ii)(A).

<sup>559</sup> 37 Pa. Code § 203.52(b)(1)(i).

<sup>560</sup> 37 Pa. Code § 203.14(a)(3).

<sup>561</sup> MPOETC 2020 Requirements for Firearms Qualifications,

<https://mpoetc.psp.pa.gov/training/Documents/Revised%20Training%20Documents/Firearms/2020%20Qualification%20Requirements%20and%20Handgun%20Course.pdf>, last accessed on June 1, 2020.

<sup>562</sup> *Ibid.*

<sup>563</sup> *Ibid.*

<sup>564</sup> *Ibid.*

MPOETC requires mandatory in-service training for all municipal police officers. Mandatory in-service training consists of continuous in-service requirements and academic in-service requirements which include the following:

- Annual qualification on a police firearms course with any firearms, shotguns, or rifles authorized for use, including personal weapons carried in lieu of issued weapons or as a second weapon.
- Maintenance of a first aid and CPR certification issued by the American Red Cross, the American Heart Association, the Department of Health or other agency approved by the Department of Health.<sup>565</sup>

For academic in-service requirements, MPOETC requires at least 12 hours of annual training as determined yearly by its members. All course content and required hours are published by notice in the *Pennsylvania Bulletin* and in the MPOETC newsletter regarding the course content and specific hours.<sup>566</sup>

*Right to Carry Firearms*

Municipal police officers are permitted by the MPOETC to carry firearms subject to the firearms training requirements and certifications mentioned above.

*Number of Individuals Serving 2015 – 2018*

The following table and chart shown below provide data regarding the numbers and trend of individual municipal police officers serving within the Commonwealth for the last four years for which data was available, as well as the number of municipal police departments.

<b>TABLE 19</b>				
<b>Number of PA Municipal Police Officers and Municipal Police Departments, 2015-2018</b>				
<b>Position</b>	<b>Year</b>			
	<b>2015</b>	<b>2016</b>	<b>2017</b>	<b>2018</b>
Municipal Police Officers	22,442	23,082	24,624	22,832
Municipal Police Departments	1,092	1,095	1,079	1,074

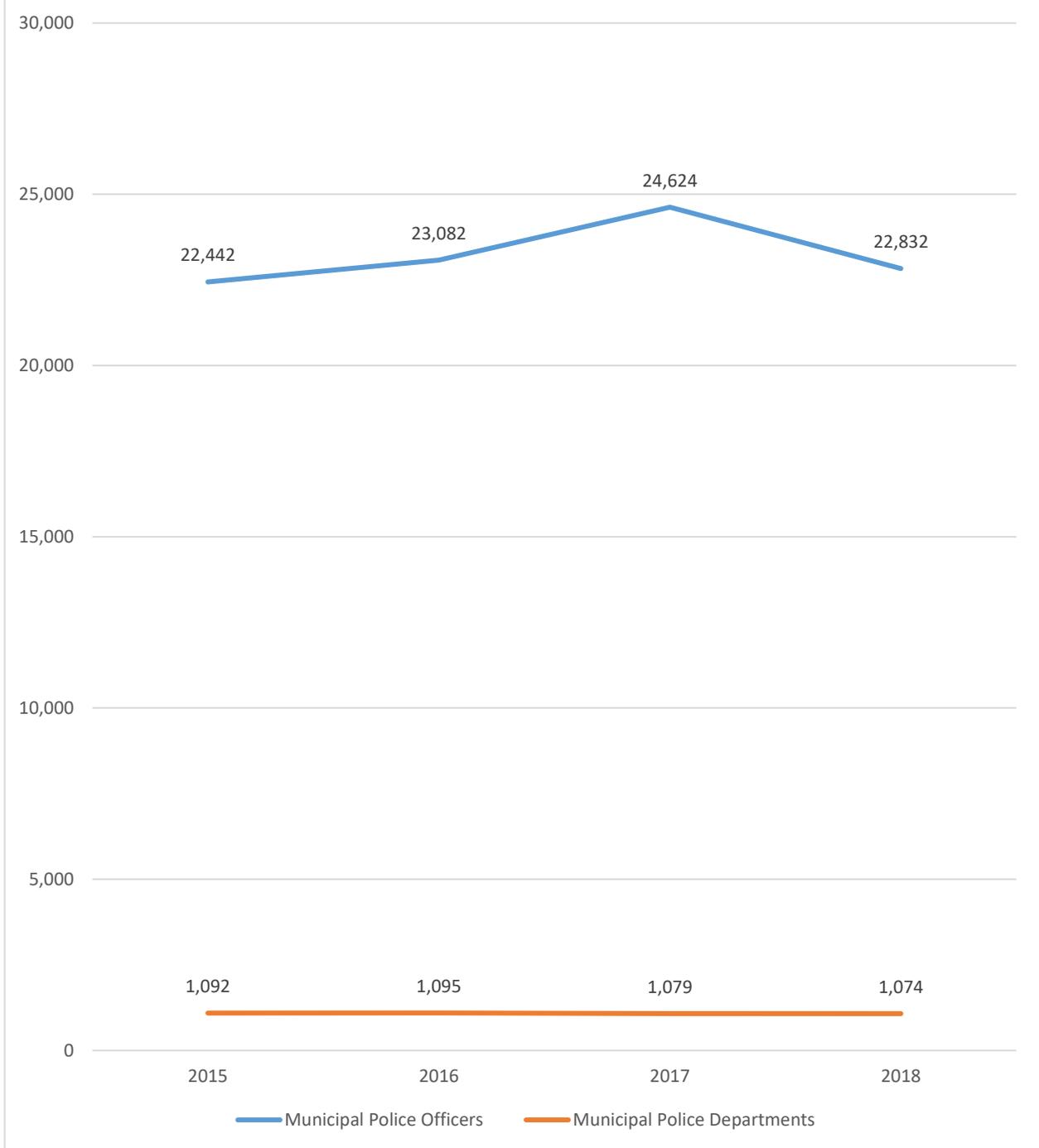
Source: Compiled by the Commission Staff based on data from the MPOETC Annual Reports 2015 – 2018.

<sup>565</sup> *Ibid.*

<sup>566</sup> *Ibid.*

### CHART 15

#### Trend of PA Municipal Police Officers and Municipal Police Departments, 2015-2018



Source: Compiled by the Commission Staff based on data from the MPOETC Annual Reports 2015 – 2018.

## *Park Police*

### *Background*

Park police are another category of local law enforcement in Pennsylvania. Pennsylvania statutory law has recognized the authority of park police since 1899 for second class cities, and since 1955 for second class counties. Specifically, the currently law provides cities of the second class, counties of the second class, and counties of third class (that are contiguous to a county of the second class) with the authority to create county park police departments. Some examples of current county park police include the Delaware County Bureau of Park Police & Fire Safety and the Lancaster County Park Rangers.<sup>567</sup>

### *Legal Authority*

Legal authority for park police for cities of the second class can be found in the Act of March 17, 1899 (P.L. 10, No. 7), § 1, whereas legal authority for county park police can be found in the Act of August 9, 1955 (P.L. 323), § 2511.

### *Appointing Authority*

Park police in second class cities within the Commonwealth are appointed by a city's Department of Parks and Recreation.<sup>568</sup> For counties of the second class and third class counties contiguous to a second class county, it is the county commissioners who hold the authority to establish a county-wide park police force.<sup>569</sup> Said county commissioners are required to designate, from the county park police officers, the chief and other ranks or classifications of officers.<sup>570</sup>

### *Duties, Scope of Authority, and Jurisdiction*

For park police within second class cities, statutory law provides that park police have the primary duty of providing police service in public parks within the city.<sup>571</sup> The law further provides that “[s]uch park police officers shall have the same power in preserving the peace, maintaining order and making arrests, as regular police officers of the Bureau of Police have in cities of the second class.”<sup>572</sup> Jurisdictionally, the law provides that these park policemen, while performing their duties in the public parks, are under the authority of the Director of the Department of Parks and Recreation. However, while performing duties outside the confines of

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<sup>567</sup> Delaware County, “Bureau of Park Police & Fire Safety – Department of Public Safety,” <https://www.delcopa.gov/departments/parkpolice.html>, last accessed November 16, 2020; Lancaster County, Pennsylvania, “Park Rangers,” <https://www.co.lancaster.pa.us/323/Park-Rangers>, last accessed on November 16, 2020.

<sup>568</sup> Act of March 17, 1899 (P.L. 10, No. 7), § 1; 53 P.S. § 23405.

<sup>569</sup> Act of August 9, 1955 (P.L. 323, No. 130), § 2511; 16 P.S. § 2511(a)-(b).

<sup>570</sup> *Ibid.* § 2512; 16 P.S. § 2512(d).

<sup>571</sup> *Supra*, n. 568.

<sup>572</sup> *Ibid.* § 3; 53 P.S. § 23407.

the public parks, the law provides that their authority will fall under that of the Director of the Department of Public Safety.<sup>573</sup>

The County Code provides a bit more detail on the duties of park police in applicable counties. For instance, the code generally provides that park police can be employed in the applicable counties for enforcing the rules and regulations ordained or resolved by the county commissioners.<sup>574</sup> The County Code then more specifically provides that it shall be the duty of the police, county park police or guards to without warrant, arrest any offender against park rules and regulations. Moreover, park police, may take the person they arrested before a magisterial district judge within the park's jurisdiction.<sup>575</sup> County park police also have the following specific powers and duties:

- Enforcing good order and protecting the grounds and buildings within a primary jurisdictional area.
- Excluding all disorderly persons from the grounds and buildings within a primary jurisdictional area.
- Exercising the same powers as are exercised under authority of law or ordinance by the police of the municipalities wherein the primary jurisdictional area is located, including, but not limited to, those powers conferred pursuant to 42 Pa.C.S. Ch. 89 Subch. D (relating to municipal police jurisdiction).
- Preventing crime, investigating criminal acts, apprehending, arresting and charging criminal offenders and issuing summary citations for acts committed on the grounds and in the buildings of the primary jurisdictional area and carrying the offender before the proper authority and prefer charges against the offender under the laws of this Commonwealth. (Except when acting pursuant to 42 Pa.C.S. Ch. 89 Subch. D, county park police must exercise these powers and perform these duties only on the grounds of the primary jurisdictional area).
- Ordering off the grounds and out of the buildings within the primary jurisdictional area all vagrants, loafers, trespassers and persons under the influence of liquor and, if necessary, removing them by force and, in case of resistance, carrying such offenders before the proper authority.
- Arresting any person who damages, mutilates or destroys the trees, plants, shrubbery, turf, grass plots, benches, buildings and structures or commits any other offense on the grounds and in the buildings within the primary jurisdictional area and carrying the offender before the proper authority.<sup>576</sup>

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<sup>573</sup> *Ibid.* § 2; 53 P.S. § 23406.

<sup>574</sup> *Supra*, n. 569, § 2511; 16 P.S. § 2511(a).

<sup>575</sup> *Ibid.* § 2512; 16 P.S. § 2512(a).

<sup>576</sup> *Ibid.* § 2512; 16 P.S. § 2512(c)(1)-(6).

Per a duly enacted ordinance creating the county park police force, the county commissioners must designate a primary jurisdictional area upon which the county park police officers have jurisdiction. The jurisdictional area in the ordinance can include:

only property owned, leased or controlled by the county, by a county municipal authority, county redevelopment authority, county industrial development authority or agency, or county airport authority, or by a community college of which the county is a local sponsor, whether such property is within or outside the territorial limits of the county. A county road, street or highway shall not be designated or considered as a primary jurisdictional area unless it is located within the boundaries of a geographical area otherwise designated by ordinance as a primary jurisdictional area pursuant to this section.<sup>577</sup>

### *Qualifications and Required Training*

There does not appear to be any express language in the statutes mentioned above regarding park police officers' training or qualifications. Indirectly however, it would appear that since county park police enjoy the same powers as are exercised under authority of law or ordinance by the police of the municipalities wherein the primary jurisdictional area is located, said officers would also be subject to the same MPOETC training requirements as those municipal police. The same is likely true for park police in second class cities, since they enjoy the "same power in preserving the peace, maintaining order and making arrests, as regular police officers of the Bureau of Police have in cities of the second class." It is important to note that the MPOETC Act includes "park police in its definition of "police officer."<sup>578</sup> For more details on MPOETC training, *see Municipal Police*.

### *Right to Carry Firearms*

Both second class city and county park police appear to have the same right to carry firearms while on duty as the municipal police in the city or other municipality their jurisdictional area is located within. *See Municipal Police*.

### *Number of Individuals Serving*

Commission staff was unable to obtain reliable service and employment information for the number of park police serving within the Commonwealth.

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<sup>577</sup> *Ibid.* § 2512; 16 P.S. § 2512(d).

<sup>578</sup> 53 Pa.C.S. § 2162.

## *Housing Authority Police*

### *Background*

The Housing Authorities Law (HAL) was established in 1937 in Pennsylvania after it was determined that a housing authority within the Commonwealth was necessary “to promote public health, safety, morals, and welfare...”<sup>579</sup> Housing authorities were established pursuant to the HAL for the public purposes of clearing, replanning, and reconstructing the areas in which slums exist; the provision of safe and sanitary dwelling accommodations for persons of low income through new construction or the reconstruction, restoration, reconditioning, remodeling or repair of existing structures, so as to prevent recurrence of the economically and socially disastrous conditions; and the accomplishing of a combination of the foregoing.<sup>580</sup> The HAL was enacted the same year as the Federal Housing Authority Act of 1937,<sup>581</sup> which was intended to deploy Federal funds and credit to “assist States and political subdivisions of States to remedy the unsafe housing conditions and the acute shortage of decent and safe dwellings for low-income families.”<sup>582</sup>

To broadly fulfill their purposes across the Commonwealth, the HAL authorized the creation of housing authorities across Pennsylvania; one for each city or county. Each such authority is permitted by law to be known as the housing authority of the city or the county, as the case may be, but said authorities are in no way deemed to be an instrumentality of such city or county, or engaged in the performance of a municipal function.<sup>583</sup>

Under the law, the need for a housing authority is determined by the existence of unsafe or unsanitary residences in a city or county or a lack of safe and clean residences available to those with low income. The governing body of that city or county must file a certificate with the Department of State and the Governor will issue a certificate allowing the establishment of the authority.<sup>584</sup> Pursuant to the Federal Housing Authority Act in conjunction with the HAL, certain qualifying housing authorities locally situated within the Commonwealth can apply for federal assistance, for housing projects within their areas of operation. Further, housing authorities are also empowered to take over or lease or manage any housing project constructed or owned by the federal government, and to these ends to comply with such conditions, and enter into any mortgages, trust indentures, leases or agreements as may be necessary.<sup>585</sup>

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<sup>579</sup> Act of May 28, 1937 (P.L. 955, No. 265), § 2; 35 P.S. § 1542.

<sup>580</sup> *Ibid.* § 2; 35 P.S. § 1542(b).

<sup>581</sup> Housing Act of 1937 (Pub. L. 75-412, 50 Stat. 888).

<sup>582</sup> Act of September 2, 1937, c. 896, Title I, § 2, as added Pub. L. 93-383, Title II, § 201(a), *as amended*; 42 U.S.C. § 1437(a)(1)(A).

<sup>583</sup> *Supra*, n. 579, § 4; 35 P.S. § 1544(a).

<sup>584</sup> *Ibid.* § 2; 35 P.S. § 1542(c).

<sup>585</sup> *Ibid.* § 22; 35 P.S. § 1562.

Established in 1937, the Pittsburgh Housing Authority was the first housing authority in Pennsylvania and one of the first nationwide.<sup>586</sup> Today there are over 50 city and county housing authorities across the Commonwealth. Housing authorities currently existing in Pennsylvania include the following:

### **CITIES**

- Allentown Housing Authority
- Altoona Housing Authority
- Chester Housing Authority
- Connellsville Housing Authority
- Dubois Housing Authority
- Easton Housing Authority
- Erie, City of Housing Authority
- Franklin Housing Authority
- Harrisburg Housing Authority
- Johnstown Housing Authority
- Lancaster City Housing Authority
- City of Meadville, Housing Authority
- Oil City Housing Authority
- Philadelphia Housing Authority
- Pittsburgh Housing Authority
- Pottsville Housing Authority
- Reading Housing Authority
- Titusville Housing Authority
- York Housing Authority

### **COUNTIES**

- Adams County Housing Authority
- Allegheny County Housing Authority
- Armstrong County Housing Authority
- Berks County Housing Authority
- Beaver County Housing Authority
- Bedford County Housing Authority
- Blair County Housing Authority
- Bucks County Housing Development Corporation
- Butler County Housing Authority
- Centre County Housing Authority
- Chester County Housing Authority
- Clarion and Forest County Housing Authority
- Clearfield County Housing Authority
- Clinton County Housing Authority
- Cumberland County Housing and Redevelopment Authorities
- Dauphin County Housing Authority
- Delaware County Housing Authority
- Delaware State Housing Authority
- Elk County Housing Authority
- Erie County Housing Authority

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<sup>586</sup> Housing Authority of the City of Pittsburgh, “History,” <https://hacp.org/about/history/>, last accessed on June 9, 2020.

## COUNTIES

- Fayette County Housing Authority
- Huntingdon County Housing Authority
- Jefferson County Housing Authority
- Lancaster County Housing & Redevelopment Authorities
- Lebanon County Housing & Redevelopment Authorities
- Lycoming Housing
- McKeesport Housing Authority
- Monroe County Housing Authority
- Northumberland County Housing Authority
- Schuylkill County Housing Authority
- Tioga Bradford Housing & Redevelopment
- Venango County Housing Authority
- Washington County Housing Authority
- Franklin County Housing Authority
- Indiana County Housing Authority
- Lackawanna Housing
- Lawrence County Housing Authority
- Lehigh County Housing Authority
- McKean County Housing Authority
- Mercer County Housing Authority
- Montgomery County Housing Authority
- Potter County Housing Authority
- Somerset County Housing Authority
- Union County Housing Authority
- Warren County Housing Authority
- Westmoreland County Housing Authority<sup>587</sup>

In order to enforce the policies of the various housing authorities, the HAL expressly grants authorities in second class counties and cities of the second class the power to appoint and utilize police officers.

### *Legal Authority*

As mentioned above, housing authority police officers retain their legal authority to carry out their official police powers from the HAL found within Title 35 of Pennsylvania's Consolidated Statutes.

### *Appointing Authority*

Members of housing authorities are appointed by the board of commissioners in counties and the mayor in cities. According to the HAL, paid public officials and elected officials are not eligible to hold both roles at once. Once appointed, housing authorities in both second class

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<sup>587</sup> HUD.gov, "Public Housing Agency Websites in Pennsylvania," <https://www.hud.gov/states/pennsylvania/renting/hawebsites>, last accessed on June 9, 2020.

counties and cities of the second class have the legal right to appoint police officers to enforce their policies.<sup>588</sup> Authorities in cities of the first class have the power to appoint security officers with police powers.<sup>589</sup>

### *Duties, Scope of Authority, and Jurisdiction*

Housing authority police officers in second class cities and counties have the same authority as the police within the authority's home municipality as it pertains to maintaining order on and around the grounds of the housing authority properties.<sup>590</sup> Officers in first class cities are empowered to enforce the law on the property of the authority and throughout the city if in hot pursuit. They may arrest those who have committed offenses and may hold those arrested individuals until appropriate law enforcement is able to transport them.<sup>591</sup>

### *Qualifications and Required Training*

Officers must take the Municipal Police Officers' Education and Training Commission (MPOETC) training course and are required to maintain their certification as a condition of their employment.<sup>592</sup> For more details on MPOETC training, *see Municipal Police*

### *Right to Carry Firearms*

Police officers and security officers appointed in second class counties, second class cities, and first class cities are provided all the authority and powers of the municipal police within the county or city in which the authority is situated. As such, these powers would generally include the right to carry firearms while carrying out official police and security duties for their respective authority. As mentioned previously, the officers would have to complete MPOETC firearms training.

### *Number of Individuals Serving as of 2020*

Commission staff was able to obtain current 2020 numbers for those Housing Authority police officers serving throughout the Commonwealth. Currently there are 56 officers in service.<sup>593</sup>

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<sup>588</sup> *Ibid.* § 10; 35 P.S. § 1550(ee).

<sup>589</sup> *Ibid.* § 10; 35 P.S. § 1550(ff).

<sup>590</sup> *Ibid.* § 10; 35 P.S. § 1550(ee).

<sup>591</sup> *Ibid.* § 10; 35 P.S. § 1550(ff).

<sup>592</sup> *Ibid.*

<sup>593</sup> Data provided by Isaac Suydam, Director of Training, Municipal Police Officers' Education and Training Commission.

## *Auxiliary Police*

### *Background*

Auxiliary police officers are generally the part-time, volunteer reserves of a primary police force. Many states have county-wide auxiliary police forces which is attributable to the fact that most states' local police are county police as opposed to the municipality-specific departments in Pennsylvania. For example, Arlington County, Virginia has had a county auxiliary police force since 1942 that is entirely made up of volunteers who support the full-time Arlington County police officers. Some of their activities include: patrolling county roads, parks, trails, and commercial areas; handling accidents and other traffic incidents; assisting at DUI checkpoints; and other police-supporting functions.<sup>594</sup> In Pennsylvania, auxiliary policemen serve at the pleasure of the chief of police of the primary police department for the municipality for which they are nominated to serve.<sup>595</sup>

### *Legal Authority*

Legal authority establishing the role and functions of auxiliary police is found within the Pennsylvania Auxiliary Police Law (PAPL), enacted in 1952. The PAPL itself is very brief and it is worth noting that various statutory municipal codes occasionally reference auxiliary police with respect to the PAPL.<sup>596</sup>

### *Appointing Authority*

The chief of police of any municipality has the authority to appoint or nominate persons as auxiliary policemen who have satisfactorily completed such training as he or she may prescribe.<sup>597</sup>

### *Duties, Scope of Authority, and Jurisdiction*

Auxiliary police officers can be called into action by the “mayor of any city, the burgess of any borough or town, and the chairman of commissioners or supervisors of any township” in the case of “any period of distress, disaster or emergency, except in cases of labor disturbances.”<sup>598</sup> Once on active duty, an auxiliary police officer is given all the powers of a municipal police officer in that municipality. However, this power is limited to the officer’s time on active duty; he or she no longer possesses these powers when he or she is off duty.<sup>599</sup>

In cases of emergency, if a municipality has a need for additional auxiliary police officers from a different municipality, it can request assistance from the Governor, who may approve the request and the Pennsylvania State Police commissioner will order the chief executive officer of

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<sup>594</sup> Arlington VA, “Auxiliary Police,” <https://police.arlingtonva.us/auxiliary-police/>, last accessed June 5, 2020.

<sup>595</sup> Act of January 14, (1952) 1951 (P.L. 2016, No. 56), § 2; 53 P.S. § 732(c).

<sup>596</sup> *Ibid.* § 1; 53 P.S. § 731 *et seq.*

<sup>597</sup> *Ibid.* § 2; 53 P.S. § 732(a).

<sup>598</sup> *Ibid.* § 4; 53 P.S. § 734.

<sup>599</sup> *Ibid.* § 5; 53 P.S. § 735.

said municipality to facilitate the transfer of supplies or officers to assist in dealing with the emergency. The officers will continue to possess all powers given to them, but will be under the jurisdiction of the municipality they are asked to serve in.<sup>600</sup> Mayors are also empowered to enlist the help of auxiliary officers for traffic or crowd control during events where the use of additional officers is in the interest of public safety.<sup>601</sup>

### *Qualifications and Required Training*

The PAPL requires that all those appointed to become an auxiliary police officer must have completed the training deemed necessary by the chief of police. Once nominated, officers serve “at the pleasure of the chief of police” and must be sworn in by “the mayor of the city, the burgess of the borough or town, or the chairman of commissioners or supervisors of the townships.”<sup>602</sup> Applicants will be deemed ineligible to serve as auxiliary police officers if they are not a U.S. citizen, or if they have ever called for a forceful overthrow of the U.S. government or have been convicted of a felony or a “subversive act against the United States.”<sup>603</sup>

### *Right to Carry Firearms*

While the PAPL does not expressly provide any insight as to an auxiliary police officer’s right to carry a firearm while fulfilling his or her duties, the law does indirectly provide for such right under section 735(a), which states that such officers are given all the powers of a municipal police officer in that municipality in which they were nominated to serve for the duration of their active duty status.

### *Number of Individuals Serving*

General numerical data on the number of auxiliary police serving throughout the Commonwealth does not appear to be available and Commission staff was unable to obtain reliable service or employment information.

## ***Special Fire Police***

### *Background*

In Pennsylvania, special fire police are sworn-in volunteer fire company members who receive training and have certain limited police powers to support firefighters at emergency incident scenes. The Commonwealth’s first set of fire police officers appear to have been

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<sup>600</sup> *Ibid.* § 6; 53 P.S. § 736.

<sup>601</sup> 8 Pa.C.S. § 1123.1.

<sup>602</sup> *Supra*, n. 595, § 2; 53 P.S. § 732(b).

<sup>603</sup> *Ibid.* § 3; 53 P.S. § 733.

appointed in 1896 in Meadville, a borough located in Crawford County, Pennsylvania. In their early days, special fire police had no legal recognition within Pennsylvania law. This changed however when Title 35 provisions were enacted to permit special fire police officers to exercise limited police power to provide protection to the fire department during emergencies.<sup>604</sup>

### *Legal Authority*

Legal authority for special fire police is found within Chapter 74, Subchapter D of the Emergency Management Services Code under Title 35 of Pennsylvania's Consolidated Statutes.

### *Appointing Authority*

Any volunteer fire company is empowered to nominate or appoint any of its members to be fire police. This nomination is to be confirmed by the mayor of the city or town or the chairman of the board of commissioners of the township or the chief executive of the municipality for which the nominee is to serve.<sup>605</sup>

### *Duties, Scope of Authority, and Jurisdiction*

After being sworn in, confirmed fire police officers must wear a badge of authority in the form of either an "arm band, hat, uniform or insignia."<sup>606</sup> While special fire police do not have the authority to make arrests, they do have the authority to control traffic and crowds in an area surrounding a fire and prevent anything from distracting firefighters from extinguishing the fire.<sup>607</sup> Special fire police hold the necessary powers to exercise their duties in place of the authority to make arrests. For example, they may detain a person and wait for the arrival of an appropriate law enforcement official.<sup>608</sup> Beyond securing the scene of a fire, fire police can also perform traffic and crowd control at other events or in case of an emergency if requested by the governing body of the city or township. These powers can also be exercised in other jurisdictions if requested.<sup>609</sup>

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<sup>604</sup> Trappe Fire Company No. 1, "The History of Fire Police Officers,"

<https://www.trappfire.org/content/firepolice/#:~:text=The%20first%20fire%20police%20officers,Meadville%2C%20Crawford%20County%20in%201896.&text=The%20Commonwealth%20of%20PA%20in,police%20power%20to%20provide%20protection>, last accessed on June 8, 2020.

<sup>605</sup> 35 Pa.C.S. § 7433.

<sup>606</sup> 35 Pa.C.S. § 7437, 7435(b).

<sup>607</sup> 35 Pa.C.S. § 7435(a).

<sup>608</sup> "Fire Police in Pennsylvania," Borough of Monaca, accessed May 7, 2020, <https://monacapa.net/?SEC=5F5B4081-5B31-4B5B-8740-70E97AEB3F2F>.

<sup>609</sup> 35 Pa.C.S. § 7436.

*Qualifications and Required Training*

A person nominated to be a fire police officer must be a member of the volunteer fire company.<sup>610</sup>

*Right to Carry Firearms*

Pennsylvania law provides no authority for special fire police to carry a firearm while on duty to conduct their sworn duties.<sup>611</sup>

*Number of Individuals Serving*

The following table and chart shown below provide data regarding the numbers and trend of individual special fire police serving within the Commonwealth for the last four years based on Pennsylvania Fire Police Association (PFPA) membership. The PFPA informed Commission staff that the actual number of special fire police in the state could be as high as 4,000. With 44 county members, and 23 counties that are not currently members.

<b>TABLE 20</b>					
<b>Number of PA Special Fire Police by PFPA Membership, 2016-2020</b>					
<b>Position</b>	<b>Year</b>				
	<b>2016</b>	<b>2017</b>	<b>2018</b>	<b>2019</b>	<b>2020</b>
Special Fire Police	2,763	2,678	2,655	2,368	2,662

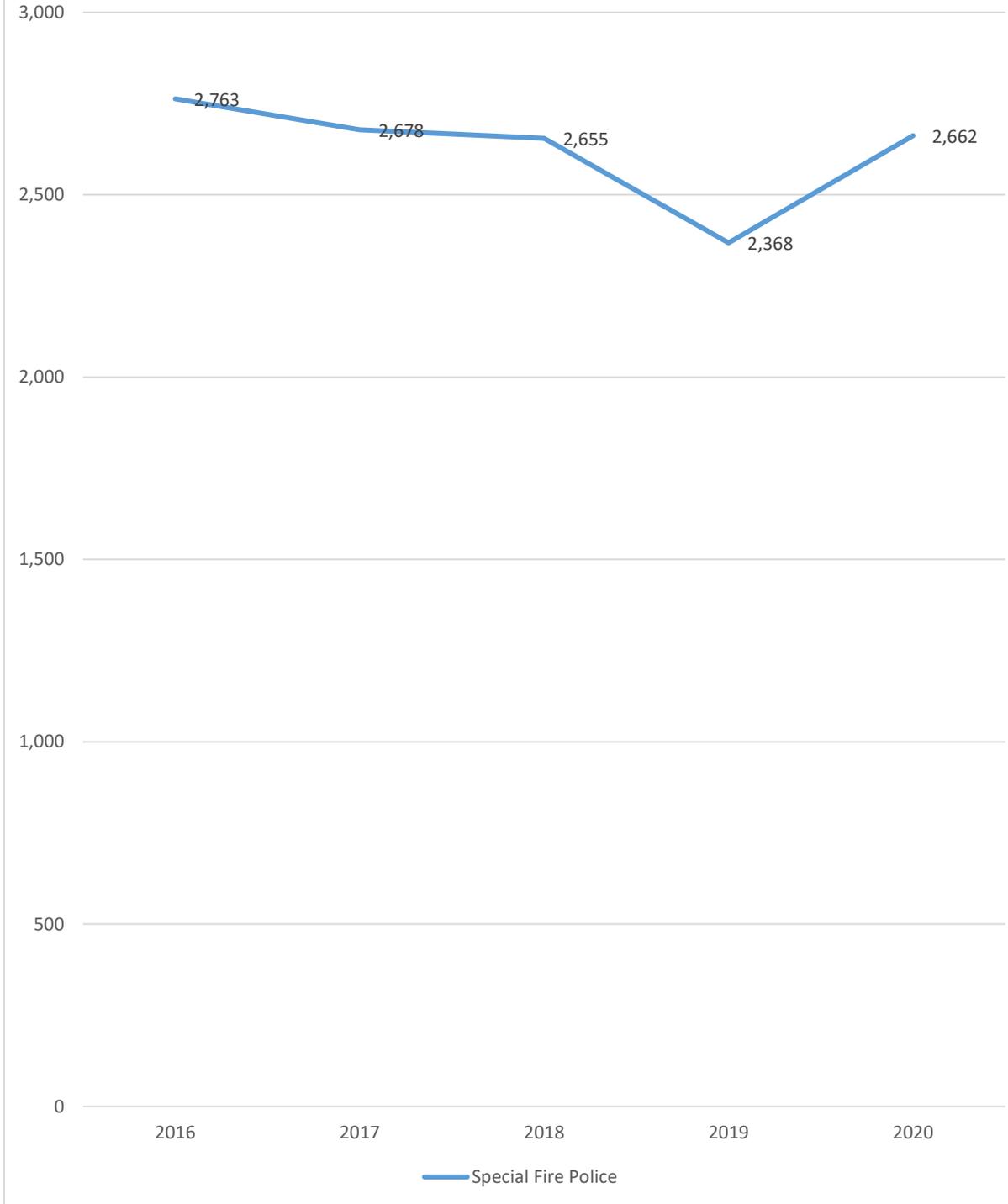
Source: Compiled by the Commission Staff based on data from Jack Urling, Pennsylvania Fire Police Association.

<sup>610</sup> 35 Pa.C.S. § 7435(c).

<sup>611</sup> *Ibid.*

**CHART 16**

**Trend of PA Special Fire Police,  
2016-2020**



Source: Compiled by the Commission Staff based on data from Jack Urling, Pennsylvania Fire Police Association.

# PRIVATE POLICE AND SECURITY

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## *Humane Society Police Officers*

### Background

Much of Pennsylvania's history of animal protection dates back to the mid-1800s. The Commonwealth's first legislation protecting animals was enacted in 1860.<sup>612</sup> The Pennsylvania Society for the Prevention of the Cruelty to Animals (PA SPCA) was founded as a state charter in 1867 by Caroline Earle, making Pennsylvania the second state in the U.S. to charter an SPCA.<sup>613</sup> The PA SPCA still exists today and its mission continues to be the protection of animals, prevention of cruelty and the improvement of the health and quality of life of animals throughout Pennsylvania.<sup>614</sup> As the protection of animals grew in priority, numerous SPCA offices and humane societies designated to assisting animals cropped up across the Commonwealth.

As a result, humane society police officers were employed by humane societies and SPCAs to enforce the Commonwealth's Crimes Code as it pertained to protecting animals.<sup>615</sup> Over time, legislation governing the conduct of humane society police officers was enacted and in 2004 training and other requirements were put into place.

In 2017, stronger animal protection laws were enacted in Pennsylvania as an effort to improve the tethering conditions for outside dogs, add protections for horses, increase the fines for animal abuse, require convicted animal abusers to forfeit animals, and to grant civil immunity for veterinarians and veterinary technicians.

### *Legal Authority*

Humane society police officers find their legal authority in statutory law within the Pennsylvania Crimes Code (Title 18 of the Pennsylvania Consolidated Statutes), and Title 22 of the Pennsylvania Consolidated Statutes.

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<sup>612</sup> Act of March 31, 1860 (P.L. 382).

<sup>613</sup> Janet M. Davis, "The History of Animal Protection in the United States," *The American Historian*, (Nov. 2015), <https://www.oah.org/tah/issues/2015/november/the-history-of-animal-protection-in-the-united-states/>, Last accessed on April 28, 2020.

<sup>614</sup> Pennsylvania SPCA, "About Us," <https://www.pspca.org/about>, last accessed on April 28, 2020.

<sup>615</sup> Federated Humane Societies of Pennsylvania, "About HSPO," (Mar. 23, 2020), <https://pafederatedhumane.org/hspo/hspo-act/>, last accessed on April 28, 2020.

### *Appointing Authority*

The humane society police officer is an appointed position. In order to appoint a humane society police officer, a society or organization must apply to the county court of common pleas (of its home county) with proof that the candidate is properly qualified according to the Chapter 37 requirements. In consultation with the district attorney, the court will determine if an appointment should be ordered for the individual. Once the court has made a determination, it must forward the information to the Department of Agriculture for its statewide registry of humane society police officers.<sup>616</sup>

### *Duties, Scope of Authority, and Jurisdiction*

Humane society police officers are vested with the same authority as police officers as it pertains to animal cruelty law within the county of their appointment.<sup>617</sup> This authority includes the ability to initiate criminal proceedings, seize animals involved in animal fighting, and execute search warrants approved by the county district attorney. The officers are enabled to provide the proper and appropriate care for the neglected animal. Said care will be paid for by the animal's owner.<sup>618</sup>

### *Qualifications and Required Training*

The qualifications that the court of common pleas and district attorney must evaluate include a residency requirement of 12 months in Pennsylvania, completion of the required training program, and a criminal history background check. A candidate will not be eligible if he or she has been convicted of a felony or serious misdemeanor or any cruelty toward animals offense, or if he or she has had an appointment for humane society police officer revoked in another jurisdiction.<sup>619</sup>

The training program put in place by 22 Pa.C.S. § 3712 is established by a contract between the Secretary of the Department of Agriculture and an accredited college or university. The program must have a minimum of 80 hours of training, including 40 hours in:

- Pennsylvania cruelty to animal laws.
- Pennsylvania Rules of Criminal Procedure.
- Proper procedure for filing citations and warrants, including how and when to contact Federal, State or local law enforcement.
- Proper execution of search warrants.

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<sup>616</sup> 22 Pa. C.S. § 3703-3704.

<sup>617</sup> 22 Pa. C.S. § 3708.

<sup>618</sup> 18 Pa. C.S. § 5551-5553.

<sup>619</sup> 22 Pa. C.S. § 3705.

- Proper search and seizure practices.
- Any other areas relating to law enforcement duties.<sup>620</sup>

There is an additional requirement for 40 hours of education in:

- Animal husbandry practices constituting normal agricultural operation.
- Practices accepted in the agricultural industry in the raising, keeping, and production of agricultural animals.
- Characteristics of agricultural animals likely evidencing care that is in violation of the cruelty to animal laws.
- Proper care, treatment and handling of agricultural and other animals pursuant to enforcement of the cruelty to animal laws.
- Treatments administered and research conducted during the normal scope of veterinarian practices.
- Agricultural biosecurity protocols.
- General farm orientation, safety and security practices, including instruction in measures for discovery of conditions and implementation of precautionary actions to prevent harm or damage to persons, animals or property.<sup>621</sup>

These courses must also include a visit to an agricultural operation that is at least 10 acres. To graduate from the training program, trainees must then also take and pass a final exam that tests on information on all the above subjects.<sup>622</sup>

Every two years following their appointment, officers are expected to meet 16 hours of continuing education requirements. Any officer who does not complete continuing education will be immediately suspended and his or her authority will be revoked until the education has been completed.<sup>623</sup>

Pennsylvania law also directs the Secretary of the Department of Agriculture to appoint a Humane Society Police Officer Advisory Board which must include:

- The secretary or his designee, who shall act as a chairman.

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<sup>620</sup> 22 Pa. C.S. § 3712.

<sup>621</sup> *Ibid.*

<sup>622</sup> *Ibid.*

<sup>623</sup> 22 Pa. C.S. § 3713.

- A representative of an organization in the Commonwealth of societies or associations for the prevention of cruelty to animals.
- A humane society police officer.
- A representative of a Statewide veterinary medical association.
- A representative of a farm organization.
- A district attorney or his designee.
- A representative of the police.
- A district justice.
- A court of common pleas judge or his designee.
- A clerk of courts.
- A representative of the Pennsylvania Game Commission.<sup>624</sup>

The board members serve in staggered terms so that a third of the appointments expire each year. The board makes recommendations to the secretary that are non-binding, reviews the training programs created for the officers, and must meet at least once annually.<sup>625</sup>

### *Right to Carry Firearms*

The law allows for firearm possession for officers who have certification from MPOETC firearm training, lethal weapons training, training pursuant to the Deputy Sheriff's Education and Training Act, or any other Pennsylvania State Police commissioner approved firearms training.<sup>626</sup>

### *Number of Individuals Serving 2019 – 2020*

Commission staff was able to obtain numbers for those humane society police officers serving throughout the Commonwealth. Based on the data provided in the Human Society Police Officers Registry, there are currently 143 human society officers who have been serving between 2019 and 2020. Human society officers are required to renew their registration every two years.<sup>627</sup>

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<sup>624</sup> 22 Pa. C.S. § 3715.

<sup>625</sup> *Ibid.*

<sup>626</sup> 22 Pa. C.S. § 3711.

<sup>627</sup> Pennsylvania Department of Agriculture, "Humane Society Police Officers Registry," <http://www.pda.state.pa.us/BAHDS/HSPO/HSPOSearch.aspx>, last accessed November 10, 2020.

## *Cemetery Watchmen*

### *Background*

Cemeteries and their individual grave-markers have been utilized by human beings to inter the remains of the deceased for thousands of years. The earliest form of cemeteries in Pennsylvania were burial grounds situated on family or church property. Individual burial plots were often “marked by a wooden marker or a crude fieldstone.” The earlier wooden markers decayed over time, however, many fieldstones still adorn cemeteries throughout the Commonwealth as ancient survivors of time and weather. As time progressed, gravestones became more sophisticated and ornate. More and more graveyards were placed adjacent to church structures. Churchyard burial grounds became enclosed by elegant stone walls or iron-wrought fences complete with intricate entry gates.<sup>628</sup>

As cemeteries and burial grounds became more intricate and organized, the Pennsylvania General Assembly began to enact laws to assist in their preservation. In 1873, the Pennsylvania Legislature enacted statutory provisions to secure and protect all organized cemeteries and burial grounds. The enactment sought to protect burial grounds by establishing “watchmen.” Watchmen served as an early form of police protection or security for cemetery grounds and their burial plots and tombstones. Similar statutes were enacted into the early 20<sup>th</sup> century, marking the Legislature’s intent to govern the operation and maintenance of cemeteries, along with their locations and recordkeeping.

### *Legal Authority*

Cemetery watchmen hold legal authority within the Act of April 9, 1873 (P.L. 67, No. 45), § 1. This section is brief and provides only a cursory paragraph relating to the role and duties of cemetery watchmen.

### *Appointing Authority*

According to the 1873 statute, cemetery watchmen as well as “superintendents, gardeners and agents,” may be appointed by the director or trustees of an organized cemetery in Pennsylvania.<sup>629</sup>

### *Duties, Scope of Authority, and Jurisdiction*

While little appears to be known or written about them (in statute or otherwise), cemetery watchmen possess police powers. For instance, watchmen have the authority to arrest on view an individual violating laws regarding cemetery property, including “protection, care and

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<sup>628</sup> Penn State York, “Pennsylvania’s Historic Cemeteries: A Brief History,” (Sept. 7, 2001), <http://www2.york.psu.edu/~glc/cemetery.html>, last accessed on July 15, 2020.

<sup>629</sup> Act of Apr.9, 1873 (P.L. 67, No. 45), § 1; 9 P.S. § 7.

preservation of cemeteries, and of the trees, shrubbery, structures and adornments therein,” on cemetery grounds or immediately adjacent to them.<sup>630</sup> They can also bring an offender before a mayor or justice to be dealt with as is appropriate.<sup>631</sup>

### *Qualifications and Required Training*

There does not appear to be any statutory requirements regarding training or qualifications. The only requirement appearing in the statute is that once appointed, a watchman must take an oath administered by the mayor or justice of the peace within the municipality of the cemetery to receive the authority to arrest.<sup>632</sup> The dearth of training requirements under the 1873 statute is likely attributable to the fact that the provision governing cemetery watchmen appear to be unchanged since its 1873 enactment, and thus reflects a bygone era of significantly less government regulation.

### *Right to Carry Firearms*

The Act provides no guidance as to whether cemetery watchmen are permitted to carry and use firearms while on duty or in the execution of their arresting authority. Likewise, no other legal resources appear to address this question. One might imply that since the provision is entitled “Watchmen; powers of police officers,” these watchmen may operate similarly to regular municipal police or constables with respect to their stationed cemetery, however, without more express language in the statute, a watchmen’s authority to carry firearms is unclear.

### *Number of Individuals Serving*

General numerical data on the number of cemetery watchmen serving throughout the Commonwealth did not appear to be available. Commission staff attempted to obtain this information from numerous associations in the field, such as the Pennsylvania Funeral Directors Association, as well as the Pennsylvania Cemetery Cremation and Funeral Association. However, all of the associations Commission staff reached out to are unaware of any cemetery watchmen serving within the Commonwealth today.

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<sup>630</sup> *Ibid.*

<sup>631</sup> *Ibid.*

<sup>632</sup> Act of Apr.9, 1873 (P.L. 67, No. 45); 9 P.S. § 7.

## *Agricultural or Horticultural Exhibit Police*

### *Background*

In 1883, the Pennsylvania General Assembly enacted legislation designed to protect agricultural and horticultural society properties during exhibitions within the Commonwealth. The legislation's protection included authorizing any agricultural or horticultural society within Pennsylvania to appoint as many policemen the society deems necessary to preserve order around and within said society's property.<sup>633</sup>

There appears to be an absence of available literature on agricultural or horticultural exhibit police, which could be explained by the fact that the time period for which the law was enacted resembled a more agrarian society where both agricultural and horticultural organizations played broader roles than as is the case today in Pennsylvania.

### *Legal Authority*

Legal authority for agricultural or horticultural exhibit police can be found in older statutory law, in particular, the Act of April 26, 1883 (P.L. 14, No. 13). It is worth noting, however, that the law was partially repealed insofar as it relates to nonprofit corporations by the Act of May 5, 1933 (P.L. 289, No. 105), art. XI, § 1102. The law was partially repealed again by the Act of January 18, 1966 (P.L. (1965) 1406, No. 520), § 26 for foreign nonprofit corporations.<sup>634</sup> These partial repeals appear to have severely narrowed the application of the law as many agricultural or horticultural societies today, such as the Pennsylvania Horticultural Society, are registered nonprofit corporations with the Pennsylvania Department of State.

### *Appointing Authority*

Agricultural and horticultural exhibit police are appointed by executives of any agricultural and horticultural society in Pennsylvania.<sup>635</sup>

### *Duties, Scope of Authority, and Jurisdiction*

Officers appointed to these roles are given the power of constables during exhibitions. They protect property, preserve order, eject people who are not authorized to be within the grounds of the exhibition or are not behaving properly, and eject those who will not pay the price of admission or follow the rules of the exhibition. In serving in a constable role, these policemen also have the authority to serve criminal process and make arrests.<sup>636</sup>

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<sup>633</sup> Act of April 26, 1883 (P.L. 14, No. 13) § 1; 3 P.S. § 1.

<sup>634</sup> *Ibid.* as noted in the Editors' Notes.

<sup>635</sup> *Ibid.*

<sup>636</sup> *Ibid.*

### *Qualifications and Required Training*

Commission staff was unable to locate any specific qualifications or training requirements in statutory law or otherwise. It is likely that because agricultural and horticultural exhibit police are authorized to serve as constables during exhibitions, said police would need to complete the training requirements of constables. *See Constables.*

### *Right to Carry Firearms*

Since the agricultural and horticultural exhibit police have the legal authorization to exercise constabulary powers, their right to carry firearms would likely be analogous to that of Pennsylvania constables, which to reiterate would include the right to carry a firearm without the requirement to do so. Likewise, if a constable or deputy constable elects to carry a firearm during the performance of his duties, he or she is required pursuant to the Pennsylvania Unified Judicial System, Constable Policies, Procedures, and Standards of Conduct, to receive firearm certification pursuant to the provisions of 44 Pa.C.S. Ch. 71.

### *Number of Individuals Serving*

General numerical data on the number of horticultural or agricultural exhibit police serving throughout the Commonwealth did not appear to be available. As was the case with cemetery watchmen, Commission staff attempted to obtain this information from different sources, which included the Pennsylvania Department of Agriculture. However, all of these sources were unaware of any horticultural or agricultural exhibit police serving within the Commonwealth today.

## ***Night Watchmen***

### *Background*

Night watchmen (considered “privately employed agents”) patrolled the streets of English towns and cities dating back to medieval times. In the early American colonies, night watchmen began as informal and communal policing. The watch police system was generally made up of volunteers within the community who had the duty “to warn of impending danger.”<sup>637</sup> In the U.S., night watches began to spring up throughout the 17<sup>th</sup> century starting with Boston in 1636, New York in 1658, and Philadelphia in 1700. However, it wasn’t until 1895 that the Commonwealth solidified the authority of night watchmen into law. Most watchmen in colonial America did not receive a salary but were paid by private citizens, as were the watchmen who patrolled in England.<sup>638</sup>

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<sup>637</sup> *Supra*, n. 521.

<sup>638</sup> *Ibid.*

The night watch system was riddled with problems and often failed to effectively combat crime. It has been said that watchmen often shirked their duties by sleeping or sometimes drinking on duty.<sup>639</sup> Some historians have even suggested that many of these “volunteers” were “simply attempting to evade military service, were conscript forced into service by their town, or were performing watch duties as a form of punishment.” Despite its imperfections, the watch system of policing continued to operate well after the American Revolution.<sup>640</sup>



Source: “Satire on night watchmen,” London, 1825, Anon, Heritage Image Partnership Ltd/Alamy Stock Photo.

### *Legal Authority*

Night watchmen are granted authority under the Act of June 26, 1895 (P.L. 333, No. 248). This section appears to have remained unrevised since its enactment in 1895. It is worth noting that other than this statutory section and a very small collection of court decisions, there is scant legal doctrine discussing these officers.

### *Appointing Authority*

An owner or occupier of real estate in “any city, borough or township of this commonwealth,” may apply to the court of quarter sessions<sup>641</sup> that is in the proper jurisdiction—or in cities with a department of public safety, the director of that department—to employ a night watchman. If the court or applicable director approves this application, the owner can hire a night

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<sup>639</sup> *Supra*, n. 525.

<sup>640</sup> *Ibid.*

<sup>641</sup> Pennsylvania counties’ Courts of Quarter Sessions’ jurisdiction was replaced by each county’s pre-existing Court of Common Pleas.

watchman.<sup>642</sup> The legality of appointing a night watchman arose in York County in 1909 and was addressed by the county's Orphan's Court. The court clarified that there must in fact be a "prior bona fide engagement of the appointee by private parties subject to the approval of the court before an appointment can be made."<sup>643</sup>

### *Duties, Scope of Authority, and Jurisdiction*

Night watchmen have all the authority of police officers or constables bestowed upon them. For example, the Pennsylvania Superior Court determined that since night watchmen are "de facto officer[s]," they are entitled to make warrantless arrests.<sup>644</sup> Night watchmen are not, however, allowed to serve subpoenas.<sup>645</sup>

### *Qualifications and Required Training*

Night watchmen who carry lethal weapons while on duty must receive training under the Lethal Weapons Training Act. If a watchman is a retired police officer who was on the force for 20 years and is less than three years into retirement, he or she will not be required to receive this training. Similarly, active police officers can also have the training waived, and must only take the firearm training required every two years.<sup>646</sup>

### *Right to Carry Firearms*

While there is no specific provision under section 3704 addressing the right of night watchmen to carry firearms, night watchmen have been treated by the courts as "de facto officers" and as noted above, retain all authority of police officers or constables. As such, night watchmen have the right to carry firearms in pursuit of their legal duties and authority, consistent with the authority of municipal police officers and constables, along with training under the Lethal Weapons Training Act.

### *Number of Individuals Serving the Past Five Years*

Commission staff was unable to find any service or employment information on night watchmen currently serving within the Commonwealth.

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<sup>642</sup> Act of June 26, 1895 (P.L. 333, No. 248), § 1; 53 P.S. § 3704.

<sup>643</sup> *Hohls' Application*, 23, York 103, (Orphan's Ct. 1909).

<sup>644</sup> *Commonwealth v. Fields*, 183 A. 78, (Pa. Super 1936).

<sup>645</sup> *Supra*, n. 642.

<sup>646</sup> Act of October 10, 1974 (P.L. 705, No. 235), § 1; 22 P.S. § 41-50.1.

## *Private Detectives, Investigators, Security Guards, and Patrolmen*

### *Background*

In addition to the wide range of law enforcement professionals and agencies discussed thus far, the Commonwealth is also home to private detectives, investigators, security guards, and patrolmen. According to state law, “private detective businesses” include the business of private detective, the business of investigator, or the business of watch, guard, or patrol agency. Private investigators, detectives, security guards, and patrolmen have been privately used within Pennsylvania for many reasons, including assisting in the search for missing persons, locating stolen property, and investigating job candidates for employers, to name a few.<sup>647</sup> The key difference between this category and virtually all the others previously mentioned, with a few exceptions, is that these individuals are generally hired privately.

These individuals must be licensed before they can carry out any of their business. However, the licensing requirement does not apply to the business of investigators for insurance companies or their adjusters, individuals in the exclusive employment of common carriers regulated by the interstate commerce commission or the Pennsylvania PUC, any telephone, telegraph or other telecommunications company regulated by the Federal Communications Commission or the Pennsylvania PUC or an employee of any such company while performing any investigatory activities engaged in by his or her employer.<sup>648</sup>

### *Legal Authority*

Legal authority addressing the work and authority of private detectives, investigators, security guards, and patrolmen can be found within the Private Detective Act of 1953 (Detective Act).

### *Duties, Scope of Authority, and Jurisdiction*

The law provides that the term “private detective business” includes: separately or collectively, accepting investigation for hire, reward, or for any consideration for the purpose of obtaining information with reference to any of the following matters:

- (1) Crime or wrongs done or threatened against the government of the U.S. or any of its states or territories.
- (2) The identity, habits, conduct, movements, whereabouts, affiliations, associations, transactions, reputation, or character, of any person, group of persons, association, organization, society, other groups of persons, partnership, or corporation.
- (3) The credibility of witnesses or other persons.

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<sup>647</sup> Act of August 21, 1953 (P.L. 1273, No. 361), § 3; 22 P.S. § 12(a)-(b).

<sup>648</sup> *Ibid.* § 3; 22 P.S. § 13(a)-(c).

- (4) The whereabouts of missing persons.
- (5) The location or recovery of lost or stolen property.
- (6) The causes and origin of, or responsibility for, fires, or libels, or losses, or accidents, or damage, or injuries, to real or personal property.
- (7) The affiliation, connection, or relation, of any person, partnership, or corporation, with any union, organization, society, or association, or with any official member or representative thereof.
- (8) With reference to any person or persons seeking employment in the place of any person or persons who have quit work by reason of any strike.
- (9) With reference to the conduct, honesty, efficiency, loyalty, or activities, of employees, agents, contractors, and subcontractors.
- (10) The securing of evidence to be used before any authorized investigating committee, board of award, board of arbitration, or in the trial of civil or criminal cases.
- (11) The furnishing, for hire or reward, of watchmen, or guards, or private patrolmen, or other persons, to protect persons or property, or to prevent the theft or the unlawful taking of goods, or to prevent the misappropriation or concealment of goods, money, bonds, stocks, or other valuable documents, or to procure the return thereof, or the performing of the service of such guard or other person, or any of said purposes.<sup>649</sup>

### *Qualifications and Required Training*

Any person, partnership, association, or corporation, intending to conduct a private detective business, the business of investigator, or the business of watch, guard or patrol agency, or the business of a detective agency, must file, in the office of the clerk of the court of quarter sessions of the county<sup>650</sup> wherein the principal office of such business is located, a written application. This must be done for each agency or business they intend to own, operate or maintain for those purposes. The application process itself is lengthy, requiring numerous forms of certificates, character verifications, and paperwork. All applicants must be at least 25 years of age.<sup>651</sup>

The written application must be duly signed and verified by each individual composing or intending to compose such business, partnership, or association. The law further requires that the application state the full name, age, residence, present and previous occupations, of each person or individual signing the application, that he or she is a U.S. citizen, and must also specify the name of the city, borough, township, or incorporated town, along with the relevant street address of the proposed place of business. The court may also require any further facts it deems necessary

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<sup>649</sup> *Ibid.* § 2; 22 P.S. § 12(b)(1)-(11).

<sup>650</sup> As mentioned previously, county courts of quarter sessions have been replaced by county courts of common pleas.

<sup>651</sup> *Supra*, n. 647, § 4; 22 P.S. § 14.

to show the good character, competency, and integrity of each person or individual so signing such application.<sup>652</sup>

Each person or individual signing the application must submit to the court his or her photograph, in duplicate, in passport size, and also fingerprints of his or her two hands. Every applicant must establish, to the court's satisfaction and by at least two duly acknowledged certificates, that such applicant has been regularly employed as a detective, or has been a member of the U.S. government investigative service, a sheriff, a member of the PSP, or a member of a city police department of a rank or grade higher than that of patrolman, for a period of not less than three years. The application will be approved by not less than five reputable citizens within the community the applicant resides or transacts business, each of whom have certified that he or she has personally known the applicant for at least five years prior to the filing, that he or she has read the application and believes each of the statements made therein are true. Moreover the at least five reputable citizens must certify that the applicant is honest, of good character, and competent. They must also certify that they are not related or connected to the applicant by blood or marriage. The certificate of approval must be signed and duly verified and acknowledged by them before an officer authorized to take oaths and acknowledgment of deeds.<sup>653</sup>

The court will issue and deliver an applicant's certificate of license to conduct or own such business after the applicant pays to the court a license fee of \$200, if the applicant is an individual, or of \$300, if the applicant is a partnership, association or corporation. This fee must be paid for each license requested. The applicant must also execute, deliver, and file in the office of the clerk of the court, a corporate bond in the amount of \$10,000. The license expires after a period of two years, but is revocable at all times by the court for cause shown.<sup>654</sup>

Once the application is approved, the court provides the applicant a pocket card, "of such size and design as such court may prescribe, which card shall contain a photograph of the licensee, the name and business address of the licensee, and the imprint or impress of the seal of the court, and also a metal shield or badge."<sup>655</sup> The applicant may not loan, let, or allow any other person to use, wear or display such certificate, pocket card, shield, or badge. No person shall wear or display any license certificate, pocket card, shield, or badge, unless they have been duly issued one pursuant to the Detectives Act.<sup>656</sup>

The Lethal Weapons Training Act (LWTA) requires that an education and training program in the handling of lethal weapons, law enforcement, and protection of rights of citizens be established and administered for individuals operating as detectives, investigators, security guards, and patrolmen. The impetus behind the LWTA was "various tragic incidents involving [private detectives, investigators, security guards, and patrolmen] which occurred because of unfamiliarity with the handling of weapons."<sup>657</sup> The term "lethal weapons" under the act includes

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<sup>652</sup> *Ibid.*

<sup>653</sup> *Ibid.*

<sup>654</sup> *Ibid.* § 6; 22 P.S. § 16.

<sup>655</sup> *Ibid.* § 12; 22 P.S. § 22.

<sup>656</sup> *Ibid.*

<sup>657</sup> Act of October 10, 1974 (P.L. 705, No. 235), § 2, known as the Lethal Weapons Training Act; 22 P.S. § 42.

but is not limited to “firearms and other weapons calculated to produce death or serious bodily harm.” This definition includes a concealed billy club, and excludes chemical mace.<sup>658</sup> Individuals must apply to be admitted into the LWTA education and training program. Among other things, the application process for the LWTA requires a showing of good character, a background check, and the payment of a \$35 application fee. If it is determined that the applicant is 18 years of age and has no conviction of a violent crime, and has satisfied any other requirements per the LWTA, the applicant will be issued a certificate of qualification to enroll in an approved program.<sup>659</sup>

The LWTA provides that all privately employed agents, except those who have been granted a waiver who, as an incidence to their employment, carry a lethal weapon, are required to attend the program and upon satisfactory completion, are entitled to certification by the Pennsylvania State Police (PSP) Commissioner. The LWTA allows a non-disability retired police officer of a Pennsylvania municipality or the PSP to be initially certified without having to meet the training and qualification standards or physical and psychological qualifications of the LWTA program if he or she was a full-time police officer for at least 20 years, retired in good standing, and has assumed the duties of a privately employed agent on or before three years from the date of his retirement. However, if a retired police officer begins his or her duties as a privately employed agent after three years from the date of his retirement, he or she must still have to meet the physical and psychological requirements.<sup>660</sup> Conversely, active police officers subject to the Municipal Police Education and Training Law, are granted a waiver to the LWTA requirements. Such officers must also successfully complete a biennial firearms qualification examination administered by their respective police agency.<sup>661</sup>

### *Right to Carry Firearms*

Private detectives, investigators, security guards, and patrolmen are prohibited from carrying any inoperative or model firearm while employed. They are only permitted to carry a powder actuated firearm approved by the Commissioner of the PSP.<sup>662</sup> As mentioned above, these individuals must also complete training pursuant to the LWTA or are granted waivers.

### *Number of Individuals Serving*

Commission staff was unable to find any service or employment information on night watchmen currently serving within the Commonwealth.

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<sup>658</sup> *Ibid.* § 3; 22 P.S. § 43.

<sup>659</sup> *Ibid.* § 6; 22 P.S. § 46.

<sup>660</sup> *Ibid.* § 8.1; 22 P.S. § 48.1(a).

<sup>661</sup> *Ibid.* § 10.1; 22 P.S. § 50.1.

<sup>662</sup> *Ibid.* § 10; 22 P.S. § 50.

## SUMMARY OF CATEGORIES

Table 21 shown below serves as an illustrative breakdown of all the different officers, agents, agencies discussed throughout this section of the report. It is worth noting that the chart is only to serve as a cursory summary. More in-depth information and details can be found in each specific subsection of the officer, agent or agency so designated.

<b>TABLE 21</b>				
<b>General Statewide Law Enforcement Jurisdiction</b>				
<b>Officer/Individual</b>	<b>Statutory Authority</b>	<b>Arrest Authority</b>	<b>Firearms Training</b>	<b>General Training Requirements</b>
PA State Police Troopers	Act of April 9, 1929 (P.L. 177, No. 175), §§ 205, 710, 711, 712; 71 P.S. §§ 65, 250, 251, 252	Authority to make arrests, without warrant, for all violations of the law, “including laws regulating the use of the highways, which a trooper has witnessed, and to serve and execute warrants issued by proper local authorities.” 71 P.S. § 252(a),(b)(1)-(5)	Firearms training includes classroom instruction and range training provided by the Pennsylvania State Police.	<ul style="list-style-type: none"> <li>• Oral and Written Exam.</li> <li>• Polygraph Exam</li> <li>• Physical. Readiness Test</li> <li>• 28 weeks of PSP Academy.</li> </ul>
PA Office of Attorney General’s Criminal Law Agents	Act of April 9, 1929 (P.L. 177, No. 175); Act of Oct. 15, 1980 (P.L. 950, No. 164), § 101; 71 P.S. § 732-101 <i>et. seq.</i> ; Act of June 28, 2018, P.L. 415, No. 57, § 2; 42 Pa.C.S. § 8953.2	Pursuant to enforcing the law under the Commonwealth Attorney’s Act. In addition, agents can enforce laws of the Commonwealth and exercise the powers of municipal police officers in specific instances. 71 Pa.C.S. § 5102	Semi-annual firearms training and agents must qualify twice per year with handguns and sometimes shotguns at Pennsylvania State Police Regional Training Centers.	<ul style="list-style-type: none"> <li>• 14-week CITP Training.</li> </ul>
PA Office of State Inspector General Special Investigators	Act of April 9, 1929 (P.L. 177, No. 175), art. V-A, § 503-A; 71 P.S. § 213	---	---	Varies depending on level of Investigator.

**TABLE 21**

**General Statewide Law Enforcement Jurisdiction**

Officer/Individual	Statutory Authority	Arrest Authority	Firearms Training	General Training Requirements
Capitol Police and Commonwealth Property Police	Act of April 9, 1929 (P.L. 177, No. 175), § 2416; 71 P.S. § 646	Same arrest powers as other police officers in the cities in which they are located and have the authority to arrest any person who shall damage, mutilate or destroy the trees, plants, shrubbery, turf, grass-plots, benches, buildings or structures, or commit any other offense within the Capitol Complex grounds. 71 P.S. § 646	MPOETC firearms training.	MPOETC police academy training.
State Institutional Police	Act of May 21, 1943 (P.L. 469, No. 210), § 1.1; 71 P.S. § 1791 <i>et. seq.</i>	Full warrantless arrest authority for violations of law which an officer witnesses occurring on any part of the premises of the institution to which they are employed. 71 P.S. § 1791.1	Same as Constables	---
<b>CORRECTIONAL INSTITUTIONS</b>				
PA Department of Corrections Officers	61 Pa.C.S. § 102	---	To become a Corrections Officer 1, they must take multiple firearms training courses to ready themselves for the carrying and use of a firearm during the course of their official duties.	<ul style="list-style-type: none"> <li>• 2 weeks at Corrections Officer Trainee (COT) training orientation facility.</li> <li>• 5 weeks at Department of Corrections Training Academy Basic Training.</li> </ul>
PA Board of Probation & Parole Agents	61 Pa.C.S. §§ 6102, 6152, 6153	Police power and authority throughout the Commonwealth to arrest without a warrant, writ, rule or	CPOFETP firearms training – for probation officers the need for CPOFETP training	<ul style="list-style-type: none"> <li>• 320 course hours of Department of Corrections Training Academy Basic Training</li> </ul>

**TABLE 21**

**General Statewide Law Enforcement Jurisdiction**

Officer/Individual	Statutory Authority	Arrest Authority	Firearms Training	General Training Requirements
		process any parolee or probationer who has violated the terms of his or her parole or probation in any way. 61 Pa.C.S. § 6152	depends on the county the officer works in.	Program for field agents. <ul style="list-style-type: none"> <li>• 318 course hours of Department of Corrections Training Academy Basic Training Program for institutional agents.</li> </ul>
<b>CONSERVATION</b>				
PA Department of Conservation & Natural Resources Park Rangers	Act of June 28, 1995 (P.L. 89, No. 18), § 101; 71 P.S. § 1340.101 <i>et, seq.</i>	Authority to make warrantless arrests without warrant for violations they witness. 71 P.S. § 1340.303(a)(7)(i)-(v)	Same as Constables.	19 weeks and 700 hours of instruction in the Park Ranger Law Enforcement Academy - MPOETC training is not required, but is accepted.
Wildlife Conservation Officers & Deputies (Game Wardens)	34 Pa.C.S. § 303; 304	Authority to arrest those who violate game and wildlife laws. 34 Pa.C.S. § 901(a)(1)-(19)	---	50 weeks and 1,400 hours of training at the Ross Leffler School of Conservation.
Waterways Conservation Officers & Deputies	30 Pa.C.S. §§ 901(a), 902, 905	Authority to arrest a person in violation of any part of Title 18 or suspected of a misdemeanor and felony if necessary. 30 Pa.C.S. § 901(a)(12)	MPOETC firearms training.	<ul style="list-style-type: none"> <li>• 20 weeks of MPOETC police academy training.</li> <li>• 32 weeks of training at H.R. Stackhouse School of Fisheries Conservation and Watercraft Safety.</li> </ul>
Forest Fire Wardens	Act of June 28, 1995 (P.L. 89, No. 18), § 101; 71 P.S. § 1340.101 <i>et, seq.</i>	Authority to arrest on sight a person found in the act of committing an offense against the laws regarding forestry. 71 P.S. § 1321	---	---

**TABLE 21**

**General Statewide Law Enforcement Jurisdiction**

Officer/Individual	Statutory Authority	Arrest Authority	Firearms Training	General Training Requirements
<b>EDUCATIONAL INSTITUTIONS</b>				
University Campus Police – State System of Higher Education	Act of March 9, 1949 (P.L. 30, No. 14), art. XX-A; 24 P.S. § 20-2001-A <i>et seq.</i>	General authority to prevent crime, investigate criminal acts, apprehend, arrest and charge criminal offenders and issue summary citations for acts committed on the grounds and in the buildings of the college or university. 71 P.S. § 646.1(a)(6); 24 P.S. § 20-2019-A(a)(6)	MPOETC firearms training.	MPOETC police academy training.
University Campus Police – State-Related and State-Aided Universities	Act of April 9, 1929 (P.L. 177, No. 175), §§ 2416, 2416.1; 71 P.S. §§ 641, 646.1	May investigate criminal acts, apprehend, arrest, and charge criminal offenders and issue summary citations for acts committed on grounds or in buildings of the college or university. 71 P.S. § 641.1(a)(6).	MPOETC firearms training	MPOETC police academy training
(Non-profit) Private College and University Campus Police	22 Pa.C.S. § 501 <i>et seq.</i>	May severally possess and exercise all the powers of a police officer in [the] Commonwealth, in and upon, and in the immediate and adjacent vicinity of, the property of the non-profit college or university. 22 Pa.C.S. § 501(c)	Compliance with Lethal Weapons Training Act firearms training.	Compliance with Lethal Weapons Training Act training.

**TABLE 21**

**General Statewide Law Enforcement Jurisdiction**

<b>Officer/Individual</b>	<b>Statutory Authority</b>	<b>Arrest Authority</b>	<b>Firearms Training</b>	<b>General Training Requirements</b>
School Police Officers	Act of March 10, 1949, P.L. 30, No. 14, Art. XIII-C, § 1302-C; 24 P.S. § 13-1302-C; § 13-1306-C	Appointed school police officers are empowered by the court with the same authority of the law enforcement officers in their school's home municipality, including arrest powers.	When authorized to carry firearm, MPOETC firearms training.	<ul style="list-style-type: none"> <li>• National Association of School Resource Officers (NASRO) Basic School. Resource Officer Course.</li> <li>• One yearly in-service training that will be approved by the MPOETC.</li> </ul>
<b>TRANSPORTATION ENFORCEMENT</b>				
Transit Police (SEPTA)	75 Pa.C.S. Ch. 17	Arrest authority while enforcing all local, state, and federal laws on and around SEPTA's transit system.	MPOETC firearms training.	MPOETC police academy training. Also must have 40 hours of in-service training per year.
Railroad and Street Railway Police	22 Pa.C.S. Ch. 33	Same arrest authority Philadelphia Police are empowered to exercise.	MPOETC firearms training.	MPOETC police academy training.
PA State Motor Carrier Enforcement Officers	75 Pa.C.S. § 4704	Only motor carrier enforcement officers who are also police officers or PSP troopers have arrest authority. Trained civilian enforcement officers do not have such authority.	MPOETC firearms training for those who are already municipal police officers.	North American Standard established by the FMCSA's National Training Center, which serves as the national focal point for development and delivery of motor carrier safety training for federal, state, and local participants. General course topics at the NTC include hazardous materials, roadside courses, and investigative courses.

**TABLE 21**

**General Statewide Law Enforcement Jurisdiction**

Officer/Individual	Statutory Authority	Arrest Authority	Firearms Training	General Training Requirements
PA Public Utilities Commission (Motor Carrier) Inspectors	66 Pa.C.S. § 307	Authority to arrest on view, without writ, rule, order, or process, any person operating as a motor carrier or common carrier by airplane without a certificate or permit required by the Public Utility Code. 66 Pa.C.S. § 307	---	---
Delaware River Port Authority Police Officers	Act of April 12, 1957 (P.L. 61, No. 34), § 1; 36 P.S. 3504.1 <i>et seq.</i>	Empowered to arrest an offender for any crime committed according to Pennsylvania or New Jersey law within their jurisdiction (upon bridges or within tunnels or approaches thereto, on rapid transit systems, ferries, facilities, or other property owned by the DRPA). 36 P.S. § 3504.1	Annual firearms qualifications as defined by Pennsylvania's Attorney General. If Pennsylvania's Attorney General deems another training program to be equivalent to the MPOETC training, an officer may be granted an exemption. 36 P.S. § 3504.1a. Currently, Pennsylvania officers comply with MPOETC.	Police training course jointly agreed to by the Attorney General of the State of New Jersey and MPOETC with the approval of the Attorney General of Pennsylvania. 36 P.S. § 3504.1a. Currently, Pennsylvania officers comply with MPOETC.
Delaware River Joint Toll Bridge Commission Police Officers	Act of March 21, 1929 (P.L. 41), § 1; 36 P.S. § 3301 <i>et seq.</i>	Authority to arrest without a warrant any offenders for "crimes, misdemeanors, and offenses of any character, or for disorder, or breach of the peace, or violations of any rules and regulations adopted by the DRJTBC. 36 P.S. § 3305	<i>See Pennsylvania State Police Troopers.</i>	<i>See Pennsylvania State Police Troopers.</i>

**TABLE 21**

**General Statewide Law Enforcement Jurisdiction**

Officer/Individual	Statutory Authority	Arrest Authority	Firearms Training	General Training Requirements
Port Authority of Allegheny County Police Officers	Act of April 6, 1956 (P.L. (1955) 1414, No. 465), § 1; P.S. § 551	Officers investigate crimes directly related to the port authority and partner with other law enforcement and public safety agencies to apprehend offenders.	---	MPOETC police academy training.
Airport Police	74 Pa.C.S. §§ 5901-5904	---	MPOETC firearms training.	MPOETC police academy training.
<b>STATEWIDE ENFORCEMENT FOR SPECIFIC ACTIVITIES</b>				
Liquor Control Enforcement Officers	Act of April 12, 1951 (P.L. 90, No. 21), § 211; 47 P.S. § 2-211	Authority to arrest on view anyone who is selling or is in unlawful possession of liquor, malt, or brewed beverages as long as they are not in a private home. LCEOs also have the authority to arrest any persons they observe violating certain enumerated criminal statutory provisions. 47 P.S. § 2-211(a)(1)-(2)	<i>See Pennsylvania State Police Troopers</i>	16-week Liquor Enforcement Officer Trainee course at Southwest Training Center. This would be in addition to Pennsylvania State Police academy training for troopers.
Revenue Enforcement Agents	75 Pa.C.S. § 9403	---	---	---
<b>LOCAL JURISDICTIONS</b>				
Constables & Deputy Constables	44 Pa.C.S. § 7101 <i>et seq.</i>	Authority to arrest individuals within their jurisdiction for a breach of the peace, and other enumerated powers. 44 Pa.C.S. § 7158	<ul style="list-style-type: none"> <li>• 40 hours of the Lethal Weapons Act Basic. Firearms Training and Certification</li> <li>• Constable Qualification Course (CQC).</li> </ul>	<ul style="list-style-type: none"> <li>• CETP Training.</li> <li>• CCETS Training.</li> </ul>

**TABLE 21**

**General Statewide Law Enforcement Jurisdiction**

<b>Officer/Individual</b>	<b>Statutory Authority</b>	<b>Arrest Authority</b>	<b>Firearms Training</b>	<b>General Training Requirements</b>
Sheriffs & Deputy Sheriffs	44 Pa.C.S. 7421 <i>et seq.</i>	Authority to perform an arrest for motor vehicle violations which amount to breaches of the peace committed in their presence. <i>Commonwealth v. Leet</i> , 641 A.2d 299, 301, 303 (Pa. 1994).	Compliance with Sheriff and Deputy Sheriff Education and Training Act.	Compliance with Sheriff and Deputy Sheriff Education and Training Act.
Real Estate Deputies	Act of July 28, 1953 (P.L. 723, No. 230), art. XII, art. XII-A, § 1204; 16 P.S. § 4204; Act of April 4, 1929 (P.L. 163, No. 158), 16 P.S. § 47517	Same arrest authority as sheriffs regarding real estate sales. 16 P.S. § 4204.	Compliance with Sheriff and Deputy Sheriff Education and Training Act.	Compliance with Sheriff and Deputy Sheriff Education and Training Act.
Municipal Police	42 Pa.C.S. § 8952-8954	Authority to enforce the law and exercise arrest authority in their municipal jurisdiction and beyond those jurisdictional limits under numerous scenarios. 42 Pa.C.S. § 8953.	MPOETC firearms training.	MPOETC police academy training.
Park Police	Act of March 17, 1899 (P.L. 10, No. 7), § 1; 53 P.S. § 23405; Act of August 9, 1955 (P.L. 323, No. 130), § 2511; 16 P.S. § 2511(a)-(b)	May perform arrests without a warrant for any violation of park rules and regulations within their primary jurisdictional area. 16 P.S. § 2512(a).	MPOETC firearms training.	MPOETC police academy training.
Housing Authority Police	Act of May 28, 1937 (P.L. 955, No. 265), § 10; 35 P.S. § 1550	Same arrest authority as the police officers in the municipality with which they are stationed, as it pertains to maintaining order on and around housing authority grounds. 35 P.S. § 1550(ee)	MPOETC firearms training.	MPOETC police academy training.

**TABLE 21**

**General Statewide Law Enforcement Jurisdiction**

<b>Officer/Individual</b>	<b>Statutory Authority</b>	<b>Arrest Authority</b>	<b>Firearms Training</b>	<b>General Training Requirements</b>
Auxiliary Police	Act of January 14, 1952 (P.L. (1951) 2016, No. 56) § 5; 53 P.S. § 735	Once on active duty, an auxiliary police officer is given all the powers of a municipal police officer (including arrest authority) in that municipality. However, this power is limited to the officer's time on active duty; he or she no longer possesses these powers when he or she is off duty. 53 P.S. § 735	---	Compliance with Pennsylvania Auxiliary Police Law which generally provides the acting chief of police for the municipality with discretion over training requirements.
Special Fire Police	35 Pa.C.S. § 7435	---	---	Must be a member of volunteer fire company with requisite training.
<b>PRIVATE POLICE AND SECURITY</b>				
Humane Society Agents	18 Pa.C.S. § 5551 and 22 Pa.C.S. Ch. 37	Same arresting authority as police officers as it pertains to animal cruelty laws. 22 Pa. C.S. § 3708	Certification from municipal police firearm training, lethal weapons training, training pursuant to the Deputy Sheriff's Education and Training Act, or any other PSP commissioner approved firearms training.	80 hours of training established by contract between the PA Department of Agriculture and an accredited college or university.
Cemetery Watchmen	Act of April 9, 1873 (P.L. 67, No. 45), § 1; 9 P.S. § 7	Authority to arrest on view an individual violating laws regarding cemetery property, including "protection, care and preservation of	---	---

**TABLE 21**

**General Statewide Law Enforcement Jurisdiction**

Officer/Individual	Statutory Authority	Arrest Authority	Firearms Training	General Training Requirements
		cemeteries, and of the trees, shrubbery, structures and adornments therein,” on cemetery grounds or immediately adjacent to it. 9 P.S. § 7		
Agricultural or Horticultural Exhibit Police	Act of April 26, 1883 (P.L. 14, No. 13), § 1; 3 P.S. § 1	In serving in a constable role, these policemen also have the authority to serve criminal process and make arrests. 3 P.S. § 1	---	---
Night Watchmen	Act of June 26, 1895 (P.L. 333, No. 248), § 1; 53 P.S. § 3704	Night watchmen retain all authority of police and constables and have the authority to make warrantless arrests. These officers cannot however, serve subpoenas. 53 P.S. § 3704	Must receive training under the Lethal Weapons Training Act. Active police officers who become watchmen can waive this training requirement.	---
Private Detectives, Investigators, Watchmen, and Patrolmen	Act of October 10, 1974 (P.L. 705, No. 235), § 2; 22 P.S. § 41-50.1	Duties and authority is mostly confined to conducting background checks, obtaining information on missing persons, locating stolen goods, and other investigatory actions. These individuals do not appear to have any arrest authority. 22 P.S. § 12(b)(1)-(11)	Must receive training under the Lethal Weapons Training Act. Active police officers who become watchmen can waive this training requirement.	Lethal Weapons Training Act Training.

Source: Compiled by the Commission Staff based on the resources cited to in this section.

Given the nature and breath of House Resolution 620 (HR 620) as it pertains to law enforcement, and especially in light of the resolution’s directive to gather service data (to the extent possible) for the number of individuals serving within each category during the last five years, it is important to briefly mention the recently enacted Act 57 of 2020 (Act 57).<sup>663</sup>

Act 57 was formally signed into law on July 14, 2020. The Act amends Title 44 of the Pennsylvania Consolidated Statutes by providing for law enforcement background investigations. Act 57 further directs law enforcement agencies to maintain certain employment records following separation of the officer from his agency of employment. In addition, Act 57 directs the Municipal Police Officers’ Education and Training Commission (MPOETC) to “establish and maintain an electronic database containing separation records.” Said database is required under the Act to be accessible to all law enforcement agencies in the Commonwealth. The Act also insulates law enforcement agencies and employers from the civil liability in connection with sharing employment information in good faith with a police department considering the hiring of a new officer.<sup>664</sup>

While one of the key purposes of the Act is to eliminate “critical gaps in knowledge, including disciplinary actions against police officer candidates,” the creation of an electronic database for law enforcement employment data as noted above is particularly relevant to this report.<sup>665</sup> While the creation of such a database primarily involves employment data (disciplinary records, etc.), a database encompassing the Commonwealth’s law enforcement agencies involves similar analysis and research methods required by HR 620’s directive to gather law enforcement service data for the past five years. For instance, determining which agencies and which law enforcement personnel, exercising both arrest authority and other police powers, actively serve in Pennsylvania.

Accordingly, the Commission staff has review Act 57 with interest as it relates to the MPOETC’s duty to create an electronic database and as mentioned in this report’s introduction, the Commission staff has utilized MPOETC as a resource in gathering such data, not only for its involvement in training, educating, and certifying law enforcement within Pennsylvania, but also for its new duties in constructing an electronic database for law enforcement. A copy of Act 57 itself has been appended to this report.

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<sup>663</sup> 44 Pa.C.S. § 7301 *et. seq.*

<sup>664</sup> *Ibid.*

<sup>665</sup> House Bill 1841 Co-sponsorship Memorandum (May 7, 2019), <https://www.legis.state.pa.us/cfdocs/Legis/CSM/showMemoPublic.cfm?chamber=H&SPick=20190&cosponId=29510>, last accessed on August 12, 2020.



## POTENTIAL CONSOLIDATIONS AND REPEALS

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### *Determining Whether to Consolidate or Repeal*

The final directive of House Resolution No. 620 was “[t]hat the study “evaluate and make recommendations regarding whether any category identified has become obsolete<sup>666</sup> or may be consolidated with one or more other categories to achieve efficiencies and enhance public safety.” Some categories appear to be carrying out duties more closely aligned with the intended purpose and activities of other categories; other categories appear to have largely stopped serving their original intended purpose altogether. These categories continue to endure within Pennsylvania statutory law even though they should be repealed or relocated statutorily.

Consolidation and repeal could address the statutory disorder caused by the significant number of categories scattered throughout Pennsylvania law. The lack of harmony and organization among the statutes makes identifying each category, and keeping track of its respective legal authority, mandatory qualifications, training requirements, scope of authority, and duties a needlessly tedious exercise. This section highlights obsolete categories that should be repealed or consolidated statutorily and provides proposed legislation that will repeal and consolidate those certain categories. Repealing obsolete categories could eliminate unnecessary statutory provisions for categories that no longer serve the Commonwealth. Consolidating certain categories into one or more other categories streamlines much of their legal authority. Streamlining certain law enforcement categories could make their future statutory amendments more seamless and less arcane.

The topic of consolidating law enforcement agencies has been given some past evaluation in previous reports; however, these reports tend to be far narrower in scope. For example, House Resolution No. 168 expressly directed the Legislative Budget and Finance Committee to study the consolidation or merger of municipal police departments in the Commonwealth. This requested analysis did not seek to merge state law enforcement agencies, nor did it consider more broadly the consolidation of other local officials such as sheriffs, constables, transit police, school police, and other peace-keeping officers with arrest authority and other police powers.<sup>667</sup>

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<sup>666</sup> The term “obsolete” as used in this report would apply to those categories that are no longer serving the Commonwealth for their intended purpose or are no longer useful for their intended purpose as originally written by their statute. - Merriam-Webster Dictionary (online), <https://www.merriam-webster.com/dictionary/obsolete>, last accessed on August 18, 2020.

<sup>667</sup> Legislative Budget and Finance Committee (LBFC), “Police Consolidation in Pennsylvania,” (Sept. 2014).

To determine whether any of the various categories discussed in this report are obsolete and should be repealed or consolidated into other categories, different factors, none of which alone are dispositive, were considered. These factors include the following:

- Number of individuals employed and serving within the category in recent years.
- Employment or service data for the category.
- Date of the category's enabling and subsequent amendments.
- Informative materials on the category.
- Existence of any professional associations or advocacy organizations for the category.
- Level of overlap or redundancy the category has with one or more other categories.
- Anecdotal information from stakeholders in the field.

To determine whether any of the various categories in this report should be consolidated into one or more other categories, it is necessary to consider the level of overlap or redundancy the category has with one or more other categories. These could include categories having similar or analogous duties and scope of authority - the authority to arrest, the right to carry firearms, and jurisdictional similarities.

In addition to preparing recommendations on repealing and consolidating certain potentially obsolete law enforcement categories, this report also provides recommendations and corresponding legislative proposals to reorganize certain statutes governing different law enforcement categories and their statutory training requirements, as well as update outdated provisions regarding obsolete definitions and fees.

### ***Recommendations***

**RECOMMENDATION #1:** *Cemetery Watchmen, Night Watchmen, and Agricultural or Horticultural Exhibit Police – repeal free-standing statutes and incorporate these categories within the scope of 22 Pa. C.S. § 501's authorization for the employment of private police by nonprofit corporations maintaining buildings and grounds open to the public*

In its review of Pennsylvania's cemetery watchmen, Commission staff first sought to determine the number of individuals (if any) that currently, and in recent years, served in an official capacity within the Commonwealth. The staff was unable to locate one cemetery watchman serving within the Commonwealth.

There appeared to be no available employment or service data for cemetery watchmen in any of the resources the staff reviewed. Neither the Pennsylvania Funeral Directors Association nor the Pennsylvania Cemetery Cremation and Funeral Association are aware of any such officials in existence currently or in recent years and were even largely unfamiliar with the category of cemetery watchmen itself. There also appears to be no association organized for the specific purpose of representing cemetery watchmen themselves.

In reviewing the statute establishing and governing cemetery watchmen (another factor from the staff's methodology), it was worth noting that the statute was formally enacted over 147 years ago in 1873, a radically different time period from today where horse-drawn carriage was still the primary means of conveyance. Equally important is the fact that the statute itself appears to have never been amended since its enactment. The complete absence of any statutory revision over the course of well over a century of time may indicate that the hiring of cemetery watchmen was not a common practice among Pennsylvania's cemeteries in recent years.

There may be some plausible reasons for the absence of active cemetery watchmen. One reason could be that the primary entities that own and maintain cemeteries – religious institutions mostly, lack the funds to hire individual cemetery watchmen to patrol their cemetery grounds. Anecdotally on that point, it was stated that most religious institutions that own cemetery grounds, such as churches, utilize their limited coffers primarily on maintain the grounds and the grave makers. Today it would seem that most criminal incidents (trespass, vandals, etc.) occurring in cemeteries are addressed by a local police presence.

All of the above appears to signal that cemetery watchmen are obsolete and the laws governing them should be repealed.

Another category suitable for possible repeal is night watchmen. Like cemetery watchmen, the statute enabling the establishment of night watchmen was a product of the late-19<sup>th</sup> century. The statute is over 120 years old, and has never been amended since its enactment. Commission staff also struggled to find any information on existing night watchmen patrolling within the Commonwealth, and was ultimately unable to find any employment or service data verifying that such watchmen still serve in an official capacity today. Moreover, there did not appear to be any organizations or associations currently representing the interests of night watchmen.

One possible reason it may be hard to find any night watchmen currently serving in the Commonwealth is because their original statutory functions appear to be largely carried on by private police and security outfits. For example, if a property owner today wants to hire an individual to patrol and protect their property or establishment, they simply hire private security guards or private police. Many private owners of real estate today often rely on local police to patrol and protect their property within their home town, city, or borough. In the time period that the night watchmen's enabling statute was enacted, there were far fewer organized police forces, especially in rural areas of the state. Another possible reason for the apparent lack of night watchmen in Pennsylvania could be linked to the troubled history of the watch police system, the system by which night watchmen originated in the U.S.

A third similarly situated category is the agricultural or horticultural exhibit police. Again, like the previous two categories, Commission staff was unable to locate any records showing that there are individuals serving as these specialized type of police officers. Commission staff consulted officials at the Pennsylvania Department of Agriculture who were also unaware of these types of police officers patrolling at any agricultural shows or events throughout Pennsylvania. Similar to cemetery and night watchmen, the statute establishing agricultural or horticultural exhibit police authority is also over 120 years old, and has only had marginal amendments throughout its history.

Finding any written literature about these police was extremely challenging. Moreover, there does not appear to be any organization or association purporting to represent their interests. As mentioned previously, some reasons for this may be that the central time period in which the enabling statute was enacted reflected a more agrarian society where both agricultural and horticultural organizations and events played a broader role in Pennsylvania. Another potential reason for the absence of agricultural or horticultural exhibit police in Pennsylvania could be the fact that today local police and private security or private police are generally hired to patrol agricultural and horticultural events. For example, Capitol Police generally serve at the Pennsylvania Farm Show Complex when agricultural or horticultural events are held today.

To determine whether or not the categories of cemetery watchmen, night watchmen, agricultural or horticultural exhibit police could potentially be incorporated into the statutes governing private police for private nonprofits (including private nonprofit colleges and universities), it was necessary to examine the above-referenced categories' level of commonality. The three categories did appear to have a lot in common based on a review of their statutes. For instance, each category's statute was from the 19<sup>th</sup> century. Furthermore, each statute contained similar, though not identical, provisions regarding the protection of cemeteries, night watchmen hired to protect real estate, and individuals serving as policemen at agricultural and horticultural exhibits. All of the original statutes grant the authority to arrest, and two provide for the transporting of an arrestee to either jail or a detention facility or a magisterial district judge.

It is important to note that two of the original statutes give a private police officer the powers and duties of a policeman in the Commonwealth. For instance, real estate night watchmen were given the powers of a police officer or a constable while the agricultural or horticultural police were granted the power of a constable under their respective statutes.

There does exist a conflict between two of the original statutes on the ability of private police officers to serve process. For instance, exhibition police are explicitly authorized to serve criminal process, while real estate night watchmen are specifically denied the power to serve "subpoenas or any civil or other process." Given the role and function of private police as described in the original statutes, it seems appropriate to deny that ability to these officers. The primary purpose of their appointments is to preserve order and protect their respective charges, which the power to arrest and detain should be sufficient to accomplish.

All of these categories appear to have jurisdictions primarily limited to the private entity appointing or hiring their respective officers. For example, cemetery watchmen would enforce law and order regarding cemetery property, while agricultural or horticultural exhibit police would exercise the power of constables during exhibitions. Moreover, night watchmen would exercise their jurisdictional authority pertaining to a private owner or occupier of real estate.

Based on the above analysis, a strong argument can be made that cemetery watchmen, agricultural or horticultural exhibit police, and night watchmen are potentially obsolete categories possessing police power. To the extent that the watchmen, security, guards, and private patrolmen are employed, they are governed by the provisions of the Private Detective Act of 1953 (P.L. 1273, No. 361). Accordingly, these 19<sup>th</sup> century free-standing statutes can be repealed from Pennsylvania law and at the very least, their positions be incorporated within the scope of 22

Pa.C.S. § 501's authorization for the employment of private police by nonprofit corporations maintaining buildings and grounds open to the public. Commission staff proposes legislation illustrating this recommended repeal of the freestanding statutes and the incorporation of the categories in 22 Pa. C.S. § 501. *See page 221 for the proposed legislation.*

**RECOMMENDATION #2:** *Amend Title 22 of the Pennsylvania Consolidated Statutes by adding the Lethal Weapons Training Act under new Subchapters A and B immediately following Chapter 1*

The original legislative findings and purpose found in section 2 of the Lethal Weapons Training Act (LWTA) noted that for some time there was no training required of privately employed agents in the handling of lethal weapons, knowledge of law enforcement, and the protection of rights of citizens. As mentioned earlier in this report, the LWTA acknowledged that this lack of training requirements leading to an unfamiliarity with the handling of lethal weapons was likely the indirect causes to various tragic incidents involving private detectives, investigators, security, guards, and patrolmen. As such, the LWTA was enacted to provide lethal weapon training requirements for these privately employed agents and their handling of such weapons.

Since the LWTA plays a critical role in the governing of privately employed detectives, investigators, security, guards, and patrolmen, this report proposes legislation relocating the LWTA under newly created subchapters within Title 22. Title 22 is a logical location for the LWTA because Title 22 is also the location of Pennsylvania laws governing these privately employed agents. Consolidating the LWTA into Title 22 helps to streamline state law requirements for these privately employed agents under one section of the law.

The report's proposed legislative amendment also modernizes some outdated provisions within the LWTA. For instance, the assertion originally provided under the LWTA that there has been no training required of privately employed agents is no longer true and has been deleted from new section 112(a) as obsolete.

In addition, the original language of section 5(2), which reads "or who have been continuously employed as full-time police officers since June 18, 1974" has been repealed as obsolete. Moreover, the reference in the legislative amendment's new section 115(2) to 44 Pa.C.S. Chapter 91 (relating to mental health evaluation) is intended to incorporate the language added by the Act of July 14, 2020 (P.L. 624, No. 59) to continue the intent of section 5(2) to avoid duplicate psychological screening of full-time police officers. The report's proposed amendment also updates the language in the penalty provisions of the LWTA. *See page 211 for the proposed legislation.*

**RECOMMENDATION #3:** *Consolidate certain Transportation-Related Law Enforcement Categories Statutorily under one Chapter*

Through its review, Commission staff noted that there were various transportation-related law enforcement categories. These various categories include: transit police, railroad and street railway police, port authority police, joint toll bridge commission police, and airport police. Consolidating these law enforcement categories would streamline all police serving public transportation authorities under one unified chapter, thus improving the statutory organization of these categories, while likely making future amendments more seamless. It should be noted that none of these categories appear to be obsolete or redundant, as each category currently has individuals employed and serving now and in recent years. Furthermore, there is current informative materials on each category that detail the significance of the police work the officers in each category provides. There also does not appear to be any real redundancy between the categories. Nonetheless, because each category provides law enforcement services for a different form of public transportation within the Commonwealth, it makes sense to consolidate them into one chapter covering public transportation.

To accomplish this, this report proposes legislation amending Chapter 33 of Title 22 of the Pennsylvania Consolidated Statutes from its initial heading of “Railroad and Street Railway Police” to the new chapter heading of “Public Transportation System Police.” The two goals of this proposed legislation is to consolidate all police serving public transportation under one chapter and to modernize the language and update the statutory cross-references within the provisions. Public transportation system police under this chapter would include separate sections addressing the provisions of railroad and street railway police, port authority police (second class county port authority police such as the port authority of Allegheny County police and Delaware River Port Authority Police), state police troopers assigned to the Delaware River Joint Toll Bridge Commission, and police serving airport authorities. While motor carrier enforcement could technically be viewed as a transportation-related law enforcement category, it would not make sense to merge said category under the new public transportation system police chapter, as these officers are trained and administered by the PSP.

In addition to consolidating these categories under one chapter, Commission staff also modernized some of the language within the existing provisions of each of the categories and updated the cross-references within the provisions. Some of these modernizations and updates include repealing 74 Pa.C.S. §§ 5901, 5902, and 5903. These statutory provisions are currently obsolete as they identify Harrisburg International Airport, the Capitol City Airport in York County, and the Grand Canyon Airport in Tioga County as state-owned airports, placing them under the jurisdiction of the Pennsylvania Department of Transportation. However, as mentioned previously in this report, ownership of those airports has transferred to other entities – Harrisburg International Airport and Capitol City Airport have been owned and operated by the Susquehanna Area Regional Airports Authority since 1998. The Grand Canyon Airport is currently owned and operated by the Grand Canyon Airport Authority. *See page 224 for the proposed legislation.*

**RECOMMENDATION #4:** *Relocate Pennsylvania State Police provisions from the Administrative Code of 1929 to Title 44 of the Pennsylvania Consolidated Statutes*

It is also recommended that the General Assembly consider relocating the provisions of the Pennsylvania State Police (PSP) to improve the overall organization of statutes governing state police law enforcement. This recommendation is illustrated in the proposed legislation attached to this report. In its proposed legislation, Commission staff specifically relocated the statutory provisions of the PSP from the Administrative Code of 1929 (Administrative Code) to a newly-created Subchapter A of Chapter 21 in Title 44 of the Pennsylvania Consolidated Statutes. Commission staff determined that the most logical location for one of Pennsylvania's largest law enforcement categories is Title 44 (Law and Justice). In addition, the proposed legislation updates the language used in the Administrative Code as it pertains to PSP. One particular update includes the insertion of the contemporary term "trooper" which is used in practice by the PSP to identify enlisted members of its police force.

Another key update inserted by the Commission staff is a repeal of the Resident State Trooper Program established in section 713 of the Administrative Code which provided for state troopers to be assigned on a regular basis to a borough or township via a contract to provide police protection to the municipality. Added to the Administrative Code by the Act of July 11, 1991 (P.L. 73, No. 12), subsection (d) expressly provided that the section would expire on December 31, 1992 unless reenacted by the General Assembly. Since no reenactment could be located by Commission staff, the report's proposed legislation repeals this section. *See page 236 for the proposed legislation.*

**RECOMMENDATION #5:** *Consolidating the provisions for Capitol Police and Commonwealth Police, Campus Police, and State Institutional Police into one Chapter under Title 44*

Commission staff proposes legislation consolidating provisions for Capitol Police and Commonwealth Property police, campus police, and State institutional police into one chapter under Title 44. This make sense because these three categories have similar powers and duties. For instance, Capitol Police and campus police share similar duties and scope of authority. Both officers have the authority to enforce good order on the state-owned grounds and buildings for which they each have jurisdiction. They each have a duty to prevent crime within their jurisdictions and can each investigate criminal acts, apprehend and arrest criminal offenders. State institutional police also have similar police powers on the state-owned grounds and buildings for which they have jurisdiction over. The proposed legislation updates the language referring to "penal, reformatory, or correctional institution" to "State correctional institution" as used in the Prisons and Parole Code.

It is important to note that this proposed legislation also consolidates the provisions for campus police for both state-owned Pennsylvania State System of Higher Education (PASSHE) universities and state-related and state-aided colleges and universities into one chapter. Without such consolidation, campus police for PASSHE universities find their authority under the Public

School Code of 1949 and state-related and state-aided college or university campus police find their authority under the Administrative Code of 1929 alongside Capitol Police and commonwealth property police.

In addition, this proposed legislative amendment updates language within the existing provisions. For example, the amendment updates the list of state-aided colleges and universities to match the current list compiled by the Pennsylvania Department of Education's database of educational institutions and section 9 of the Pennsylvania Fair Educational Opportunities Act. Currently, the act's list had universities and colleges listed that no longer exist. *See page 247 for the proposed legislation.*

**RECOMMENDATION #6:** *Repeal free-standing statutes pertaining to Sheriffs and Deputy Sheriffs in First Class Counties while consolidating them in Title 44 to parallel the County Code provisions*

Commission staff recommends repealing the free-standing statutes pertaining to sheriffs and deputy sheriffs in first class counties while consolidating them in Title 44 to parallel the County Code provisions.

Amendments to the Pennsylvania Constitution in 1968 abolished all county offices in Philadelphia, with the city granted the authority to perform all functions of county government. Specifically, Article IX, 3(f) provides:

Upon adoption of this amendment all county officers shall become officers of the City of Philadelphia, and until the General Assembly shall otherwise provide, shall continue to perform their duties and be elected, appointed, compensated and organized in such manner as may be provided by the provisions of this Constitution and the laws of the Commonwealth in effect at the time this amendment becomes effective, but such officers serving when this amendment becomes effective shall be permitted to complete their terms.

Several pre-1968 statutes existed that were applicable to first class county sheriffs and deputy sheriffs. By operation of the 1968 constitutional amendments, these became applicable to first class city sheriffs and deputy sheriffs. Since at least as early as The General County Law of 1929, counties of the first class were exempted from statutes governing other counties. The General County Law, and its successor statutes, the County Code of 1955 and the Second Class County Code of 1953, include provisions regarding the powers and duties of sheriffs and deputy sheriffs in second through eighth class counties. The assorted statutes governing the role of sheriffs in first class counties have not been so organized previously. As such, Commission staff is proposing a legislative amendment that creates a subchapter designed to parallel the provisions of the County and Second Class County Codes regarding sheriffs and deputy sheriffs and consolidates those statutes. It also repeals those free-standing statutes applicable to sheriffs and deputy sheriffs in first class counties. Like the report's previous recommendations, this amendment is intended to

streamline the provisions pertaining to sheriffs and deputy sheriffs in a more organized fashion than the existence of separate free-standing statutes.

This proposed amendment also updates language within existing sheriff and deputy sheriff provisions. For example, 16 P.S. § 7518 limits the salary of a real estate deputy to \$7,500 per year. Likewise, 16 P.S. § 7521 limits the salary of the chief deputy to \$7,500 per year. The report's proposed amendment repeals both of those provisions as obsolete, in that the salaries of deputy sheriffs in Philadelphia, the only city of the first class, as set by the city's Civil Service Commission. *See page 257 for the proposed legislation.*



# PROPOSED LEGISLATION

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## AN ACT

Amending Titles 22 (Detectives and Private Police) and 44 (Law and Justice) of the Pennsylvania Consolidated Statutes, codifying provisions relating to the powers and duties of state, local and private law enforcement officers; and making editorial changes and related repeals.

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

Section 1. Title 22 of the Pennsylvania Consolidated Statutes is amended by adding

Subchapters A and B immediately following Chapter 1 to read:

Chapter 1. General Provisions (Reserved)

Subchapter A

(Reserved)

Subchapter B

Lethal Weapons Training

Sec.

111. Short title.

112. Legislative findings and purpose.

113. Definitions.

114. Education and training program

115. Powers and duties of Commissioner.

116. Certificate of qualification.

117. Certification and fee.

118. Good standing.

119. Municipal and state police officer.

120. Prohibition and penalties.

§ 111. Short title.

This subchapter shall be known and may be cited as the “Lethal Weapons Training Act.”

### **SOURCE**

Section 111 derived from § 1 of the act of October 10, 1974 (P.L.705, No.235), known as the Lethal Weapons Training Act (LWTA); 22 P.S. § 41.

#### § 112. Legislative findings and purpose.

(a) Findings.--The General Assembly finds that there are private detectives, investigators, watchmen, security guards and patrolmen, privately employed within this Commonwealth who carry and use lethal weapons including firearms incident to their employment and that there have been various tragic incidents involving these individuals which occurred because of unfamiliarity with the handling of weapons. The General Assembly also finds that training in the handling of lethal weapons and in the knowledge of law enforcement and the protection of rights of citizens is necessary for these privately employed agents, and that such training would be beneficial to the safety of the citizens of this Commonwealth.

(b) Purpose.-- It is the purpose of this subchapter to provide for the education, training and certification of privately employed agents who, incidental to their employment, carry lethal weapons through a program administered or approved by the Commissioner of the Pennsylvania State Police.

### **SOURCE**

Section 112 derived from § 2 of the LWTA; 22 P.S. §§ 42.

### **NOTE**

The original legislative findings and purpose found in § 2 of the LWTA act noted at that time no training was required of privately employed agents in the handling of lethal weapons, knowledge of law enforcement and the protection of rights of citizens. As that assertion is no longer true, it was deleted from new § 112(a) as obsolete.

§ 113. Definitions.

The following words and phrases, when used in this subchapter shall have the meanings set forth in this section, unless the context clearly indicates otherwise:

“Commissioner.” The Commissioner of the Pennsylvania State Police.

“Full-time police officer.” An employee of a city, borough, town, township or county police department assigned to law enforcement duties who works a minimum of two hundred days per year. The term does not include persons employed to check parking meters or to perform only administrative duties, nor does it include auxiliary and fire police.

“Lethal weapons.” Firearms and other weapons calculated to produce death or serious bodily harm. A concealed billy club is a lethal weapon. The chemical mace or any similar substance shall not be considered as “lethal weapons” for the purposes of this subchapter.

“Privately employed agent.” A person employed for the purpose of providing private police, watch guard, protective patrol, detective or criminal investigative services either for another for a fee or for his employer. Privately employed agents do not include local, State or Federal Government employees or those police officers commissioned by the Governor under 22 Pa.C.S. Chapter 33 (relating to public transportation system police). The term includes a police officer of a municipal authority.

“Program.” The education and training program established and administered or approved by the commissioner in accordance with this subchapter.

**SOURCE**

Section 113 derived from § 3 of the LWTA; 22 P.S. §§ 43.

§ 114. Education and training program.

(a) Establishment.—An education and training program in the handling of lethal weapons, law enforcement and protection of rights of citizens shall be established and administered or approved by the commissioner in accordance with this subchapter.

(b) Required certification.--Except those who have been granted a waiver by the commissioner, all privately employed agents who, incidental to their employment, carry a lethal weapon shall be required to attend the program established by subsection (a) and, shall be entitled to certification upon satisfactory completion of the program.

(c) Prohibition of interest.--Except for colleges and universities, no nongovernment employer of a privately employed agent who, incidental to his employment, carries a lethal weapon, shall own, operate, or otherwise participate in, directly or indirectly, the establishment or administration of the program established by subsection (a).

**SOURCE**

Section 114 derived from § 4 of the LWTA; 22 P.S. §§ 44.

§ 115. Powers and duties of Commissioner.

The commissioner shall have the power and duty to:

(1) Implement and administer or approve the minimum courses of study and training for the program in the handling of lethal weapons, law enforcement and protection of the rights of citizens.

(2) Implement and administer or approve physical and psychological testing and screening of the candidate for the purpose of barring from the program those not physically or mentally fit to handle lethal weapons. However, candidates who are full-time police officers and have successfully completed a physical and psychological examination as a prerequisite to

employment or to continued employment by their local police departments, or who have undergone a mental health evaluation under 44 Pa.C.S. Chapter 91 (relating to mental health evaluations) shall not be required to undergo any physical or psychological testing and screening procedures so implemented.

(3) Issue certificates of approval to schools approved by the commissioner and to withdraw certificates of approval from those schools disapproved by the commissioner.

(4) Certify instructors pursuant to the minimum qualifications established by the commissioner.

(5) Consult and cooperate with universities, colleges, community colleges and institutes for the development of specialized courses in handling lethal weapons, law enforcement and protection of the rights of citizens.

(6) Consult and cooperate with departments and agencies of this Commonwealth and other states and the federal government concerned with similar training.

(7) Certify those individuals who have satisfactorily completed basic educational and training requirements as established by the commissioner and to issue appropriate certificates to such persons.

(8) Visit and inspect approved schools at least once a year.

(9) In the event that the commissioner implements and administers a program, to collect reasonable charges from the enrolled students to pay for the costs of the program.

(10) Make rules and regulations and to perform other duties as may be reasonably necessary or appropriate to implement the education and training program.

(11) Grant waivers from compliance with this subchapter applicable to privately employed agents who have completed a course of instruction in a training program approved by the commissioner.

#### **SOURCE**

Section 115 derived from § 5 of the LWTA; 22 P.S. §§ 45.

#### **COMMENT**

The original language of § 5(2), which reads “or who have been continuously employed as full-time police officers since June 18, 1974” has been repealed as obsolete. The reference in new section 115(2) to 44 Pa.C.S. Chapter 91 (relating to mental health evaluation) is intended to incorporate the language added by the act of July 14, 2020 (P.L.624, No.59) to continue the intent of § 5(2) to avoid duplicate psychological screening of full-time police officers.

#### **§ 116. Certificate of qualification.**

(a) Application.--A person desiring to enroll in the program shall make a signed and verified application to the commissioner, on a form to be prescribed by the commissioner.

(b) Contents.--The application shall include the applicant’s full name, age, residence, present and previous occupations and other information that may be required by the commissioner to show the good character, competency and integrity of the applicant.

(c) Application presented in person.—The application shall be personally presented by the applicant at an office of the Pennsylvania State Police where his fingerprints shall be affixed thereto. The application shall be accompanied by two current photographs of the applicant of a size and nature to be prescribed by the commissioner and a \$95 application fee, unless the applicant is a full-time police officer, in which case no application fee shall be required. Thereafter the application shall be forwarded to the commissioner.

(d) Fingerprints.--The fingerprints of the applicant shall be examined by the Pennsylvania State Police and the Federal Bureau of Investigation to determine if he has been convicted of or

has pleaded guilty or nolo contendere to a crime of violence. The commissioner may waive the requirement of Federal Bureau of Investigation examination. Any fee charged by the federal agency shall be paid by the applicant.

(e) Age limitation.--No application shall be accepted if the applicant is under the age of eighteen.

(f) Certificate of qualification to enroll.--After the application has been processed and if the commissioner determines that the applicant is eighteen years of age and has not been convicted of or has not pleaded guilty or nolo contendere to a crime of violence, and has satisfied any other requirements prescribed under section 115 (relating to powers and duties of commissioner), he shall issue a certificate of qualification which shall entitle the applicant to enroll in an approved program.

#### **SOURCE**

Section 116 derived from § 6 of the LWTA; 22 P.S. §§ 46.

#### **§ 117. Certification and fee.--**

(a) Fee.--A certification fee of not more than \$45 shall be paid by each individual satisfactorily completing the program prior to certification.

(b) Photo identification.--The commissioner shall furnish to each certified individual an appropriate wallet or billfold size copy of the certificate, which shall include a photograph of the individual thereon. Every certified individual shall carry this wallet or billfold size certificate on the individual's person as identification during the time when on duty or going to and from duty and carrying a lethal weapon.

(c) Duration.--Certification shall be for a period of five years.

(d) Renewal.-A privately employed agent who, incidental to employment, carries a lethal weapon, shall be required to renew that certification within six months prior to the expiration of the certificate. The commissioner shall prescribe the manner in which the certification shall be renewed, and may charge a nominal renewal fee therefore, not to exceed \$45.

#### **SOURCE**

Section 117 derived from § 7 of the LWTA; 22 P.S. §§ 47.

§ 118. Good standing.

(a) Requirement of current certification.—A privately employed agent must possess a valid certificate whenever on duty or going to and from duty and carrying a lethal weapon.

(b) Notification.--Whenever an employer of a privately employed agent subject to the provisions of this subchapter discharges the individual for cause, the employer shall notify the commissioner within five days of the discharge.

(c) Revocation.--The commissioner may revoke and invalidate any certificate issued to a privately employed agent under this subchapter whenever the commissioner learns that false, fraudulent or misstated information appears on the original or renewal application or whenever the commissioner learns of a change of circumstances that would render an employee ineligible for original certification.

#### **SOURCE**

Section 118 derived from § 8 of the LWTA; 22 P.S. §§ 48.

§ 119. Municipal and state police officers.

(a) Retired police officers.--A nondisability retired police officer of a Pennsylvania municipality or the Pennsylvania State Police shall be initially certified under this subchapter, and

need not meet the training and qualification standards or physical and psychological qualifications provided in this subchapter if the individual was a full-time police officer for at least twenty years, retired in good standing, and has assumed the duties of a privately employed agent on or before three years from the date of retirement. If a retired police officer commences duties as a privately employed agent after three years from the date of retirement, the physical and psychological requirements of this subchapter for certification must be met.

(b) Active police officers.--All active police officers subject to the training provisions of 53 Pa.C.S. Chapter 21, Subchapter D (relating to municipal police education and training) shall be granted a waiver of the training requirements of this subchapter upon presentation to the commissioner of evidence of completion of the training requirements of 53 Pa.C.S. Chapter 21, Subchapter D and the successful completion of a biennial firearms qualification examination administered by the officer's police agency.

(c) Fees--A retired police officer initially certified under this section shall not be required to pay the application fee but shall pay the certification fee upon the submission of a completed application provided by the commissioner.

#### **SOURCE**

Subsections 119(a) and (c) are derived respectively from subsections 8.1(a) and (b) of the LWTA; 22 P.S. § 48.1(a) and (b). Subsection 119(b) is derived from § 10.1 of the LWTA; 22 P.S. § 50.1.

#### **§ 120. Prohibitions and penalties.**

(a) Use of model or inoperable weapons.--No individual certified under this subchapter shall carry an inoperative or model firearm while employed and he shall carry only a powder actuated firearm approved by the commissioner.

(b) Failure to obtain current certification.--A privately employed agent who in the course of employment carries a lethal weapon, and who fails to comply with section 114 (b) (relating to education and training program) or section 118(a) (relating to good standing) shall be guilty of a misdemeanor of the third degree.

(c) Failure to carry certification card.--Any privately employed agent who in the course of his employ carries a lethal weapon, and who violates section 117(b) (relating to certification and fee) shall be guilty of a summary offense.

### **SOURCE**

Subsection 120(a) is derived from §10 of the LWTA; 22 P.S. § 50. Subsections 120(b) and (c) are derived respectively from § 9(a) and (b) of the LWTA; 22 P.S. § 49.

### **NOTE**

The penalties in § 120 are updated from the 1974 original language. § 9(a), the source of § 120(b), listed the offense as a misdemeanor subject to imprisonment of up to one year and a fine not exceeding \$1,000, or both. The reference has been updated to a misdemeanor of the third degree, defined in 18 Pa.C.S. § 1104(3) as having a maximum period of incarceration of one year, and a fine of up to \$2,500 as set forth in 18 Pa.C.S. § 1101(6).

Subsection 9(b), the source of § 120 (c), listed the offense as a summary offense subject to a fine not exceeding \$50. This language has been updated to simply refer to a summary offense, which under 18 Pa.C.S. § 1101(7), is subject to a fine of up to \$300.

### **CHAPTER COMMENT**

The fees set forth in LWTA sections 6 and 7 were repealed by the act of July 1, 1981 (P.L. 143, No. 48) “insofar as they establish a set fee for any activity inconsistent with the fees set forth in this act.” Act 48 of 1981 amended the act of April 9, 1929 (P.L. 177, No. 175), known as the Administrative Code of 1929 and added a new § 616-A (71 P.S. § 240.16a), which set forth a list of fees that the Pennsylvania State Police were authorized to charge. The list was not identified as an exclusive list, and as these fees do not conflict in anyway with the provisions of § 616-A, they are retained in this codification.

## CHAPTER NOTE

References to statutes that have been repealed and replaced with successor legislation have been updated as follows:

The act of February 27, 1865 (P.L. 225, No. 228) found in the definition of “privately employed agent” was repealed by the act of November 23, 1982 (P.L. 686, No. 196) and replaced with 22 Pa.C.S. Chapter 33 (relating to Railroad and Street Railway Police).

The reference in the original language of § 10.1 to the act of June 18, 1974 (P.L. 359, No. 120), known as the Municipal Police Education and Training Law has been replaced in new § 119(b) with a reference to 53 Pa.C.S. Chapter 21, Subchapter D, §§ 2161-2171. The 1974 act was codified into Title 53 by the act of December 19, 1996 (P.L. 1158, No. 177).

Section 2. Section 501 of Title 22 of the Pennsylvania Consolidated Statutes is amended to read as follows:

§ 501. Appointment by nonprofit corporations.

(a) Appointment authorized.--Any nonprofit corporation, as defined in 15 Pa.C.S. Pt. II Subpt. C (relating to nonprofit corporations) maintaining [a cemetery or] any buildings or grounds open to the public[, or organized for the prevention of cruelty to children or aged persons, or one or more of such purposes,] may apply to the court of common pleas of the county of the registered office of the corporation for the appointment of such persons as the corporation may designate to act as policemen for the corporation. The court, upon such application, may by order appoint such persons, or as many of them as it may deem proper and necessary, to be such policemen.

(b) Oath of office.--Every policeman so appointed shall, before entering upon the duties of his office, take and subscribe the oath required by the sixth article of the Constitution of Pennsylvania. Such oath, together with the decree and order of the court, shall be recorded by the recorder of deeds of each county in which it is intended that such policemen shall act.

(c) Powers.--Such policemen, so appointed, shall severally possess and exercise all the powers of a police officer in this Commonwealth, in and upon, and in the immediate and adjacent vicinity of, the property of the corporation. [Policemen so appointed for a corporation organized for the prevention of cruelty to children or aged persons, or one or more of such purposes, shall severally possess and exercise all the powers of a police officer in any county in which they may be directed by the corporation to act, and are hereby authorized to arrest persons for the commission of any offense of cruelty to children or aged persons.] The keepers of jails and other places of detention in any county of this Commonwealth shall receive all persons arrested by such policemen for purposes of detention until they are dealt with according to law. Every policeman appointed under this section, when on duty, shall wear a metallic shield with the words "special officer" and the name of the corporation for which appointed inscribed thereon.

(d) Compensation.--The compensation of such policemen shall be paid by the corporation for which the policemen are appointed, as may be agreed upon between the corporation and such policemen.

(e) Termination of appointment.--When any corporation shall no longer require the services of any policeman, it shall file a notice to that effect, under its corporate seal, in the office of each recorder of deeds where the court decree and order of appointment of such policeman were recorded. The recorder of deeds shall note this information upon the margin of the record where the court decree and order were recorded, and thereupon the powers of such policeman shall terminate. It shall be the duty of the recorder of deeds to notify the clerk of the court by which such policeman was appointed of the termination of such appointment in such county.

(f) Service of process.--No private police officer is authorized to serve civil or criminal process.

(g) Training.—Private police appointed under this chapter shall comply with the requirements of Title 22, Ch. 1, Subch. B (relating to lethal weapons training).

### **SOURCE**

Subsections (f) and (g) are new.

### **COMMENT**

22 Pa.C.S. § 501 applies to a nonprofit corporation maintaining a cemetery, a nonprofit corporation maintaining any buildings or grounds open to the public, and a nonprofit corporation for the prevention of cruelty to children or the aged. Three 19<sup>th</sup> century statutes contained similar, though not identical, provisions: the act of April 9, 1873 (P.L. 67, No. 45), regarding protection of cemeteries; the act of April 26, 1883 (P.L. 14, No. 13), regarding policemen at agricultural and horticultural exhibits; and the act of June 26, 1895 (P.L. 333, No. 248), regarding night watchmen hired to protect real estate. The 19<sup>th</sup> century statutes have been determined to be obsolete, and the potential employment of private police for the purposes described in the acts and are superseded by and incorporated within the scope of § 501's authorization for the employment of private police by nonprofit corporations maintaining buildings and grounds open to the public.

Additionally, the act of April 26, 1870 (P.L. 1269, No. 1166) authorized the mayor of the City of Philadelphia to commission private patrol and watchmen to protect the property of residents or persons doing business in areas of the city. These private police were given the power of arrest and the right to be armed. These powers were superseded by the 1895 act cited above and the 1870 act is repealed as obsolete.

All of the original statutes provide for authority to arrest, and two provide for transporting an arrestee to either a jail/detention facility or a magisterial district judge. The other two are silent on the disposition of any individual following their arrest.

Two of the original statutes give a private police officer the powers and duties of a policeman in the Commonwealth; real estate night watchmen were given the powers of a police officer or a constable; the agricultural/horticultural statute gave its policemen the power of a constable.

There is a conflict between two of the original statutes on the ability of private police officers to serve process: exhibition police are explicitly authorized to serve criminal process, while real estate night watchmen are specifically denied the power to serve "subpoenas or any civil or other process." The other two statutes are silent on the subject. Given the role and function of private police as described in the original four statutes, it seems appropriate to deny that ability to these officers, as is set forth in subsection (f). The primary purpose of their appointments

is to preserve order and protect their respective charges, which the power to arrest and detain should be sufficient to accomplish.

Subsection (g) is added to acknowledge that private police under these provisions are “privately employed agents” for purposes of the Lethal Weapons Training Act.

Section 3. The heading of Chapter 33 of Title 22 of the Pennsylvania Consolidated Statutes is amended to read:

Chapter 33. [Railroad and Street Railway] Public Transportation System Police

Section 4. Sections 3301, 3302, 3303, 3304, and 3305 of Title 22 are amended to read:

§ 3301. Appointment.

(a) Authorization.--A [corporation owning or operating a railroad or street passenger railway in this Commonwealth, including also an authority existing pursuant to Article III of the act of January 22, 1968 (P.L.42, No.8), known as the “Pennsylvania Urban Mass Transportation Law,” for its entire transportation system, and including an authority existing pursuant to the act of April 6, 1956 (1955 P.L.1414, No.465), known as the “Second Class County Port Authority Act,”] public transportation system may apply to the Commissioner of the Pennsylvania State Police upon [such] forms as [he shall] the commissioner shall prescribe for the appointment of specific persons [as the applicant may designate] designated by the applicant to act as [railroad or street railway policemen] public transportation system police for it. [The commissioner, after such] After any investigation [as he shall deem] deemed necessary, the commissioner shall recommend to the Governor the commissioning of [such] those persons as [railroad or street railway policemen] public transportation system police or advise the applicant of their adverse recommendations and the reasons therefor. [The Governor, upon such] Upon any application and recommendation, the Governor may appoint [such] those persons to be [railroad or street railway policemen] public transportation system police, and shall issue to [such] those persons so appointed a commission to act as such [policemen] police.

(b) Definitions.--The following words and phrases, when used in this chapter shall have the meanings set forth in this subsection, unless the context clearly indicates otherwise:

“Public transportation system.” Any of the following entities:

(1) A corporation owning or operating a railroad or street passenger railway in this Commonwealth.

(2) A metropolitan transportation authority created pursuant to 74 Pa.C.S. Chapter 17 (relating to Metropolitan Transportation Authorities) or a predecessor statute.

(3) An authority operating pursuant to the act of April 6, 1956 (1955 P.L.1414, No.465), known as the “Second Class County Port Authority Act.”

§ 3302. Oath of office.

Every [railroad or street railway policeman so] commissioned public transportation system police officer shall, before entering upon the duties of [his] office, take and subscribe the oath required by Article VI of the Constitution of Pennsylvania. The oath and commission issued by the Governor shall be recorded in the office of the Secretary of the Commonwealth, in the county where the registered corporate office or principal place of business of the public transportation system is located and a copy filed with the commissioner.

§ 3303. Powers and duties.

(a) General powers.—[Railroad and street railway policemen] Public transportation system police shall severally possess and exercise all the powers of a police officer in the City of Philadelphia, in and upon, and in the immediate and adjacent vicinity of, the property of the corporate authority or elsewhere within this Commonwealth while engaged in the discharge of their duties in pursuit of [railroad, street railway or] public transportation system business.

(b) Detention of arrested persons.--The keepers of jails and other places of detention in any county of this Commonwealth shall receive all persons arrested by [railroad or street railway policemen] public transportation system police for purposes of detention until they are dealt with according to law.

(c) Badge.—[Railroad and street railway policemen when on duty] When on duty, public transportation system police shall wear or carry a metallic shield containing the words "railroad police" or "railway police" or other appropriate title and the name of the [authority] public transportation system.

(d) Course of instruction.—Every [railroad and street railway] public transportation system police officer shall successfully complete the same course of instruction required for municipal police officers by [the act of June 18, 1974 (P.L.359, No.120), referred to as the Municipal Police Education and Training Law] 53 Pa.C.S. Chapter 21, Subchapter D (relating to municipal police education and training).

§ 3304. Compensation and liability.

The compensation of [railroad or street railway policemen] public transportation system police shall be paid by their corporate authority. The Commonwealth of Pennsylvania shall not be held liable for any wrongful act of any police officer commissioned under [the provisions of] this chapter.

§ 3305. Termination of appointment.

When the corporate authority no longer requires the services of any [railroad or street railway policemen] public transportation system police, it shall file a notice to that effect, under its corporate seal, in the office of the Secretary of the Commonwealth, in the office of the recorder of deeds where the oath and commission were recorded and with the commissioner. The recorder of

deeds shall note this information upon the margin of the record where the oath and commission were recorded and thereupon the powers of the [policemen] police officer shall terminate.

Section 5. Title 22 is amended by adding sections 3306, 3307, and 3308, to read:

§ 3306. Delaware River Port Authority police.

(a) Authorization.--The Delaware River Port Authority, a body corporate and politic, functioning under the legislation enacted by the Commonwealth of Pennsylvania and the State of New Jersey and the express consent of the Congress of the United States, and its wholly-owned subsidiary corporations through which it is effectuating its authorized purposes, shall have the power and authority to appoint the number of police officers as is found necessary to keep in safety and preserve order upon the bridges and tunnels and approaches thereto, and upon the rapid transit systems, ferries, facilities and other property as the Delaware River Port Authority or its subsidiaries does or may hereafter own, lease or operate.

(b) Oath.—A police officer appointed under subsection (a) shall make an oath or affirmation faithfully to perform the duties of the officer's position or office.

(c) Compensation.—Police officers appointed under this section shall receive payment for their services from the tolls, fares, charges and other revenue of the Delaware River Port Authority or its subsidiary corporations.

(d) Powers and duties.—A police officer appointed under this section shall have the power and authority to:

(1) Make arrests for any crimes, misdemeanors, and offenses committed under the laws of the State of New Jersey or the Commonwealth of Pennsylvania upon the bridges or within the tunnels or approaches thereto, on the rapid transit systems, ferries, facilities or other property owned, leased or operated by the Delaware River Port Authority or a subsidiary corporation,

for disorder or breach of the peace, or for violations of any lawful regulation which may be adopted by the Delaware River Port Authority or a subsidiary corporation.

(2) Make arrests or issue citations for evasion or attempts to evade the payment of tolls, fares or other charges which may be fixed or may have been fixed for the use of a bridge, tunnel, rapid transit system, or ferry, facility or other property owned, leased or operated by the Delaware River Port Authority or a subsidiary corporation.

(3) While acting within any other areas of the port district, police officers appointed by the Delaware River Port Authority or a subsidiary corporation shall have all of the powers, including the right to carry firearms while on duty, and all of the immunities conferred by law on police officers or municipal police officers in the enforcement of the laws of the State of New Jersey and the Commonwealth of Pennsylvania, subject to the requirements of subsection (f).

(e) Arrest or apprehension of toll evaders.—

(1) The act of passing over any part of the bridges or through the tunnels and approaches thereto in any vehicle for which tolls are collectible, or for any person or vehicle to use the rapid transit systems or ferries or other facilities or property without passing through the toll gates or paying the necessary tolls, fares or charges constitutes an evasion and shall subject the person so evading or attempting to evade the payment of tolls, fares or charges to arrest or receipt of a citation.

(2) Upon the apprehension or arrest of any person or persons for any of the reasons set forth in paragraph (e)(4) the offender may be taken before any proper judicial officer of the Commonwealth of Pennsylvania or of the State of New Jersey without respect to the portion of the bridge, tunnel, ferry facility, rapid transit system, facilities or other property upon or

within which the offense may have been committed or attempted or the offender arrested, and the judicial officer shall have power and authority to punish the offender as hereinafter provided.

(f) Authority to establish regulations.—The Delaware River Port Authority, and its wholly-owned subsidiary corporations through which it is effectuating its authorized purposes shall have the power to adopt rules and regulations as they may respectively deem expedient for the proper government of the bridges, tunnels, approaches thereto, rapid transit systems, ferries, facilities or other property and for the preservation of good order, safe traffic, and proper conduct thereon or therein.

(g) Fines for violators.--Any person violating any of the provisions of this section or of any rule or regulation adopted by the Delaware River Port Authority, or its subsidiary corporations, or who evades or attempts to evade payment of tolls, fares or charges shall, upon summary conviction before a proper judicial officer of this Commonwealth, or of a proper judicial officer of the State of New Jersey, be sentenced to pay a fine of not less than \$10, nor more than \$25, and costs of prosecution, and in default of the payment thereof, shall undergo imprisonment for not less than ten days nor more than thirty days, and upon conviction of any subsequent offense, shall be sentenced to pay a fine of not less than \$25, nor more than \$50, and costs of prosecution, or to undergo imprisonment for not less than thirty days nor more than sixty days.

(h) Training.—Police officers appointed under this section shall comply with the following:

(1) A police officer shall successfully complete a police training course jointly agreed to by the Attorney General of the State of New Jersey and, subject to the approval of the Attorney General of the Commonwealth of Pennsylvania and the Municipal Police Officers' Education and Training Commission established under 53 Pa.C.S. Chapter 21 (relating to municipal

police education and training) and shall fully comply with the annual firearms qualifications standards as approved by the Attorney General of the Commonwealth of Pennsylvania.

(2) A police officer may be exempted from the police training requirements of this subsection if the officer demonstrates successful completion of a police training course conducted by any Federal, State or other public or private agency, the requirements of which are determined by the Attorney General of New Jersey and, subject to the approval of the Attorney General of the Commonwealth of Pennsylvania, the Municipal Police Officers' Education and Training Commission to be substantially equivalent to the police training course requirements of this subsection.

(3) An exemption granted under paragraph (2) does not exempt the police officer from full compliance with the annual firearms qualification standards required in this subsection.

(4) The cost of the police training described in this subsection shall be borne by the Delaware River Port Authority.

(i) Construction.--The powers vested in the Delaware River Port Authority by this section shall be construed as being in addition to and not in diminution of the powers heretofore vested in the Delaware River Port Authority.

## SOURCE

Subsections (a) through (g) of Section 3306 are derived from § 1 the act of April 12, 1957 (P.L. 61, No. 34), 36 P.S. § 3504.1. Subsections (h) and (i) derived, respectively, from §§ 1.1 and 2 of the act of April 12, 1957 (P.L. 61, No. 34), 36 P.S. §§ 3504.1a and 3504.2. Sections 3 and 4 of the 1957 act are transitional provisions that have been fully executed and have therefore been repealed as obsolete.

## NOTE

The Delaware River Port Authority (DRPA) police are appointed under a joint venture between the Commonwealth of Pennsylvania and the State of New Jersey, and as such, their appointment and duties are similar to those of other transit officers, but in order to not create conflicts with the New Jersey sister statute of these provisions, a separate section has been created. DRPA has jurisdiction over the Ben Franklin, Walt Whitman, Commodore Barry, and Betsy Ross Bridges and the Port Authority Transit Corporation, which operates a transit line between Camden, New Jersey and Center City Philadelphia. While joint port authority activities have been authorized between Pennsylvania and New Jersey since at least 1919, the compact has been reauthorized most recently by the act of June 12, 1931 (P.L. 575, No.200), 36 P.S. § 3503, which incorporated previous incarnations of the DRPA by reference.

### § 3307. Delaware River Joint Toll Bridge Commission.

(a) The Delaware River Joint Toll Bridge Commission, a body corporate and politic, functioning under the legislation enacted by the Commonwealth of Pennsylvania and the State of New Jersey, shall have the power and authority to appoint the number of police officers as is found necessary to keep in safety and preserve order upon the bridges or on the approaches thereto, or other property that the commission does or may hereafter own, lease or operate.

(b) Oath.—A police officer appointed under subsection (a) shall make an oath or affirmation faithfully to perform the duties the officer's position or office.

(c) Powers and duties.— A police officer appointed under this section shall have the power and authority:

(1) To make arrests on view and without warrant for crimes, misdemeanors, and offenses of any character, or for disorder, or breach of the peace, or violations of any rules and regulations adopted by the Delaware River Joint Toll Bridge Commission committed within the jurisdiction of this Commonwealth, on any bridge owned by or under the control of the Delaware River Joint Toll Bridge Commission, or on the approaches to the bridge or on any other property owned by or under the control of the commission.

(2) All the powers conferred by law on police officers or constables in the enforcement of laws and the apprehension of violators.

(d) Arrest.--Any person arrested by a Delaware River Joint Toll Bridge Commission police officer shall be conducted by the officer to the nearest magisterial district judge of the political subdivision in which the arrest is made, or if there is no magisterial district judge available in the political subdivision, to the available magisterial district judge of any adjoining political subdivision.

(e) Authority to establish regulations.—The Delaware River Joint Toll Bridge Commission shall have the power to adopt any rules and regulations as deemed expedient for the proper government of the bridges, approaches thereto or other property and for the preservation of good order, safe traffic, and proper conduct thereon. Copies of the rules and regulations shall be posted conspicuously on each bridge under the jurisdiction of the commission.

(f) Fines for violators.-- Any person guilty of disorderly conduct or breach of the peace on any bridge, its approaches or other the property under control of the Delaware River Joint Toll Bridge Commission, or violating any of the rules and regulations adopted by the joint commission shall be subject to the following penalties:

(1) Upon conviction for a first offense, sentenced to pay a fine of not less than \$10, nor more than \$25, and costs of prosecution, and in default of the payment thereof, shall undergo imprisonment for not less than ten days nor more than thirty days.

(2) Upon conviction of any subsequent offense, sentenced to pay a fine of not less than \$25, nor more than \$50, and costs of prosecution, or to undergo imprisonment for not less than thirty days nor more than sixty days.

Fines recovered under this subsection shall be paid into the State Treasury of the Commonwealth of Pennsylvania through the Department of Revenue.

(g) Training.—Police officers appointed under this section shall be subject to the provisions of 53 Pa.C.S. Chapter 21, Subchapter D (relating to Municipal Police Education and Training).

#### **SOURCE**

Subsections 3307(a) and (b) derived from § 1 of the act of March 21, 1929 (P.L.41, No.38), 36 P.S. § 3301. Paragraph (c)(1) derived from § 1 of the 1929 act, and § 1 of the act of April 17, 1945 (P.L. 236, No. 106), 36 P.S. §§ 3301 and 3305 respectively. Paragraph (c)(2) derived from § 1 of the 1945 act, 36 P.S. § 3305. Subsection (d) derived from §2 of the 1929 act and §1 of the 1945 act, 36 P.S. §§ 3302 and 3305, respectively. Subsections (e) and (f) derived respectively from §§ 3 and 4 of the 1929 act, 36 P.S. §§ 3303 and 3304. Subsection (g) is new. Section 2 of the 1945 act is transitional and fully executed and is therefore repealed as obsolete.

#### **NOTE**

The Delaware River Joint Toll Bridge Commission (DRJTBC) operates under a joint venture between the Commonwealth of Pennsylvania and the State of New Jersey, and as such, its officers' appointment and duties are similar to those of other transit officers, but in order to not create conflicts with the New Jersey sister statute of these provisions, a separate section has been created. While joint port toll bridge activities have been authorized between Pennsylvania and New Jersey since at least 1919, the current compact has been reauthorized most recently by the act of June 25, 1931 (P.L. 1352, No. 332), 36 P.S. §3401, which incorporated previous incarnations of the DRJTBC by reference.

Section 205(a) of the act of April 9, 1929, (P.L. 177, No. 175) known as The Administrative Code of 1929, 71 P.S. § 65, makes reference to State Police troopers assigned to duty with the DRJTBC, and as State Police troopers, they would be

subject to the training requirements of the Pennsylvania State Police. For police officers employed by the DRJTBC, the addition of subsection (g) is consistent with the powers conferred on DRJTBC police under subsection (c)(2) of this section, and in alignment with the training requirements for transit police in general. AC1929 § 205(a) is codified under this codification at § 2101(b)(3).

DRJTBC has jurisdiction over all toll and non-toll (toll-supported) bridges that cross the Delaware River along the Pennsylvania-New Jersey border north of the Bucks County/Philadelphia County line. This includes 20 river crossings and 34 approach structures (overpasses and underpasses). Three bridges are exempt from the commission's authority – the Burlington-Bristol Toll Bridge, the Delaware River Bridge linking the Pennsylvania and New Jersey turnpikes, and the Dingman's Ferry Bridge.

§ 3308. Airport authority police.

(a) Authorization to hire police.--An airport authority, except an authority located within a county of the first or second class, may employ any persons necessary to provide for the safety and well-being of persons and property at the airport.

(b) Powers and duties.--The persons who are employed shall have the power to act in accordance with Title 75 (relating to vehicles).

(c) Training.—Persons employed as airport authority police shall be subject to 53 Pa.C.S. Chapter 21, Subchapter D (relating to Municipal Police Education and Training).

(d) Disposition of fines.--All fines forfeited, recognizances and other fines imposed, lost or forfeited, shall be payable to the airport authority.

**SOURCE**

Section 3308 is derived from 74 Pa.C.S. § 5904.

**NOTE**

74 Pa.C.S. § 5901 identifies Harrisburg International Airport as a state-owned airport and 74 Pa.C.S. § 5902 identifies the Capitol City Airport in York County and the Grand Canyon Airport in Tioga County as state-owned airports. All three airports were under the jurisdiction of the Pennsylvania Department of Transportation, and 74 Pa.C.S. § 5903 gave the department the authority to operate the airports, and included provisions regarding commissioning of airport police by

the Governor. As the commissioning of those police took place through the Governor's authority over executive agency police, found in the act of act of May 21, 1943 (P.L. 469, No. 210), 71 P.S. § 1791, the divestiture of these agencies removed them from the Governor's jurisdiction. Ownership of all three airports have been transferred to other entities – Harrisburg International Airport and Capitol City Airport have been owned and operated by the Susquehanna Area Regional Airports Authority since 1998. The Grand Canyon Airport is currently owned and operated by the Grand Canyon Airport Authority. Accordingly, 74 Pa.C.S. §§ 5901, 5902, and 5903 are repealed as obsolete, and all airport authorities, except those in first and second counties, will be covered by new § 3308 (former 74 Pa.C.S. § 5904).

### **CHAPTER COMMENT**

The amendments to this chapter accomplish two goals. The first, is to modernize the language and update the statutory cross-references within the provisions. The second goal is to consolidate all police serving public transportation authorities under one chapter.

Section 6. Section 3711 of Title 22 is amended to read as follows:

§ 3711. Limitation on possession of firearms.

No individual appointed as a humane society police officer shall carry, possess or use a firearm in the performance of that individual's duties unless that individual holds a current and valid certification in the use and handling of firearms pursuant to at least one of the following:

- (1) 53 Pa.C.S. Ch. 21 Subch. D (relating to municipal police education and training).
- (2) [The act of October 10, 1974 (P.L.705, No.235), known as the Lethal Weapons Training Act] 22 Pa.C.S. Ch. 1 Subch. B (relating to lethal weapons training).
- (3) [The act of February 9, 1984 (P.L.3, No.2), known as the Deputy Sheriffs' Education and Training Act] 44 Pa.C.S. Ch. 74 Subch. B (relating to sheriff and deputy sheriff education and training).
- (4) Any other firearms program that has been determined by the Commissioner of the Pennsylvania State Police to be of sufficient scope and duration as to provide the participant with basic training in the use and handling of firearms.

Section 7. The heading of Chapter 21 of Title 44 of the Pennsylvania Consolidated Statutes is amended to read:

Chapter 21 – Preliminary Provisions [(Reserved)].

Section 8. Chapter 21 of Title 44 of the Pennsylvania Consolidated Statutes is amended by adding Subchapter A to read:

SUBCHAPTER A

ORGANIZATION OF THE PENNSYLVANIA STATE POLICE

Sec.

2101. Pennsylvania State Police established.

2102. Commissioner.

2103. Police academy.

2104. Powers and duties of Pennsylvania State Police.

2105. Powers and duties of individual troopers.

2106. Mandatory retirement.

2107. Court-martial.

2101. Pennsylvania State Police established.

(a) Organization.--The Pennsylvania State Police shall consist of a Commissioner, Deputy Commissioners, and troopers, as now authorized by law, consolidated into one force, to be known as the Pennsylvania State Police, and any chiefs, statisticians, clerks, experts and other assistants, as the commissioner, with the approval of the Governor, shall deem necessary for the work of the force.

(b) Police complement.—

(1) Subject to the limitation set forth in paragraph (2), the Pennsylvania State Police shall consist of the number of troopers and shall be organized in the manner as the Commissioner of the Pennsylvania State Police, with the approval of the Governor, shall from time to time determine.

(2) The number of troopers shall not exceed in the aggregate at any time 4,310 persons.

(3) Troopers assigned to duty with the Pennsylvania Turnpike Commission, Delaware River Joint Toll Bridge Commission, Gaming Enforcement and Liquor Control Enforcement shall not be counted in determining the total number of troopers in the Pennsylvania State Police.

(4) Cadets and troopers serving a probationary period under subsection (c) shall not be counted in determining the number of troopers in the Pennsylvania State Police.

(c) Probationary period.--All new cadets and troopers shall serve a probationary period of eighteen months from date of original enlistment, during which time they may be dismissed by the commissioner for violations of rules and regulations, incompetency, and inefficiency without action of a court-martial board or the right of appeal to a civil court.

(d) Support staff.—The chiefs, statisticians, clerks, experts, and other assistants engaged in the work of the Pennsylvania State Police shall be appointed by the commissioner.

(e) Compensation.—The compensation of all troopers, chiefs, statisticians, clerks, experts and other assistants, shall be fixed by the commissioner with the approval of the Governor. The compensation shall conform to the standards established by the Executive Board created in § 204 of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929.

(f) Definitions.—The following words and phrases, when used in this subchapter, shall have the meanings given to them in this subsection, unless the context clearly indicates otherwise:

“Commissioner.” The Commissioner of the Pennsylvania State Police appointed under 44 Pa.C.S. § 2102 (relating to commissioner).

“Trooper.” Includes officers and enlisted members, but does not include support staff appointed under subsection (d).

### **SOURCE**

Subsections (a) and (b) derived respectively from subsections 205(a) and (b) of the act of April 9, 1929 (P.L. 177, No. 175), 71 P.S. § 65(a) and (b), known as the Administrative Code of 1929 (AC1929). Subsection (c) derived from subsections 205(f) and 711(b)(4) of the AC1929; 71 P.S. §§ 65(f) and 251(b)(4) . Subsections (d) and (e) derived from subsection 205(c) of the AC1929, 71 P.S. § 65(c). Subsection (f) is new.

### **COMMENT**

The term “trooper” has been added to acknowledge the language used in practice by the Pennsylvania State Police. The language in the AC1929 is silent as to the treatment of cadets and probationary troopers for purposes of calculating the maximum complement established in paragraph (b)(2), but as those persons may fail to complete training or the probationary period, it appeared reasonable to not include them in the calculation.

### **§ 2102. Commissioner.**

The Commissioner of Pennsylvania State Police shall be the head and executive officer of the Pennsylvania State Police, and shall have the following powers and duties in addition to those specifically assigned to the Commissioner elsewhere in this chapter:

(1) Provide suitable uniforms, arms, equipment, and, where it is deemed necessary, horses or motor vehicles for the troopers;

(2) Make rules and regulations, subject to the approval of the Governor:

(i) prescribing qualifications prerequisite to, or retention of, troopers;

(ii) for the enlistment, training, discipline, and conduct of troopers;

(iii) for the selection and promotion of troopers on the basis of merit;

(iv) for the filing and hearing of charges against troopers; and  
(v) any other rules and regulations deemed necessary for the control and regulation of  
the State Police.

(3) Establish local headquarters in various places, so as best to distribute the troopers  
through the various sections of the Commonwealth where they will be most efficient in  
carrying out the purposes of this chapter or any other provision of the laws of the  
Commonwealth of Pennsylvania to preserve the peace, prevent and detect crime and to police  
the highways.

### **SOURCE**

The introduction and paragraphs (1) and (2) of Section 2102 derived from the first and second sentences of subsection 711(a) of the AC1929, 71 P.S. § 251(a).  
Paragraph (3) derived from the fourth sentence of subsection 711(a), 71 P.S. § 251(a).

#### § 2103. Police academy.

(a) Establishment by the Commissioner.--The commissioner shall maintain a training school,  
to be known as the Pennsylvania State Police Academy, for the proper in  
struction of troopers, situated at the place or places that the commissioner, with the approval of  
the Governor, may determine.

(b) Required elements of training.--The training prescribed by the commissioner for troopers  
shall include identifying and responding to ethnic tension situations and complaints of violation  
of 18 Pa.C.S. § 2710 (relating to ethnic intimidation) or 3307 (relating to institutional  
vandalism).

## SOURCE

Subsection (a) derived from the third sentence of subsection 711(a) of the AC1929, 71 P.S. § 251(a). Subsection (b) derived from subsection 711(a.1) of the AC1929, 71 P.S. § 251(a.1).

### § 2104. Powers and duties of Pennsylvania State Police.

(a) General powers and duties.--In its role as an agency of the Commonwealth of Pennsylvania, the Pennsylvania State Police shall have the power and its duty shall be:

(1) Subject to any inconsistent provisions contained in this chapter, to continue to exercise the powers and perform the duties by law vested in and imposed upon the Department of State Police, the Pennsylvania State Police, the State Highway Patrol, and the Pennsylvania Motor Police;

(2) To assist the Governor in the administration and enforcement of the laws of the Commonwealth, in time, place and manner as the Governor may from time to time request;

(3) With the approval of the Governor, to assist any administrative department, board, or commission of the Commonwealth of Pennsylvania to enforce the laws applicable or appertaining to the department, board, or commission, or any organization thereof;

(4) Whenever possible, to cooperate with counties and municipalities in the detection of crime, the apprehension of criminals, and the preservation of law and order throughout the Commonwealth;

(5) To aid in the enforcement of all laws relating to game, fish, forests, and waters;

(6) To collect and classify, and keep at all times available, complete information useful for the detection of crime, and the identification and apprehension of criminals. The information shall be available for all police officers within the Commonwealth, under any regulations as the commissioner may prescribe;

(7) To enforce the laws regulating the use of the highways of this Commonwealth, and to assist the Department of Transportation and the Department of Revenue in the collection of motor license fees, fees for titling vehicles and tractors, operators' license fees, the tax on cigarettes, the tax on liquid fuels, and the issuance of certificates of title and motor and operators' licenses;

(8) To search without warrant any boat, conveyance, vehicle or receptacle, or any place of business when there is good reason to believe that any law has been violated, the enforcement or administration of which is imposed or vested in the Department of Revenue;

(9) To collect information relating to crimes and incidents related to the race, color, religion or national origin of individuals or groups, which shall be reported monthly by all local law enforcement agencies and the State Fire Marshal. Any information, records and statistics collected in accordance with this subsection shall be available for use by any agency required to furnish information, to the extent that the information is reasonably necessary or useful to the agency in carrying out the duties imposed on it by law. The commissioner may, by regulation, establish conditions for the use or availability of any information as may be necessary to its preservation, the protection of confidential information, or the circumstances of a pending prosecution. This paragraph shall be known as the Ethnic Intimidation Statistics Collection Act.

(b) Specific assistance to other Commonwealth agencies.—Consistent with the powers and duties set forth in subsection (a), the Pennsylvania State Police shall provide assistance to specific departments, boards and commissions in their enforcement of the laws and regulations under the jurisdiction of the specific agency or department in the following manner:

(1) To serve as liquor control enforcement officers under section 211 the act of April 12, 1951 (P.L.90, No.21), known as the Liquor Code.

(2) To serve as motor carrier enforcement officers under the provisions of 75 Pa.C.S. (relating to vehicles), including, but not limited to, Chapters 47 (relating to inspection of vehicles), Chapter 49 (relating to size, weight and load) and Chapter 83 (relating to hazardous materials transportation).

(3) To assist revenue enforcement agents under the Department of Revenue in enforcing 75 Pa.C.S. Ch. 94 (relating to liquid fuels and fuel use tax enforcement).

(4) to assist such other Commonwealth agencies and departments as authorized by law.

#### **SOURCE**

Paragraphs (a)(1) through (9) are derived respectively from the introduction and subsections (a) through (i) of Section 710 of the AC1929; 71 P.S. §250. Subsection (b) is new to the extent that it catalogs roles the Pennsylvania State Police perform under existing law. That authority can be found in subsections 710(b), (c), and (g), as well as existing laws relating to the Liquor Code and the Vehicle Code, 71 P.S. § 250(b), (c), and (g).

The act of October 3, 1986 (P.L.1414, No.129) added subsection 710(i) to the AC1929 and provided that the amendatory act shall be known as the Ethnic Intimidation Statistics Collection Act. Accordingly, this title has been codified in new 2104(a)(9).

#### **§ 2105. Powers and duties of individual troopers.**

In fulfilling the obligations of the Pennsylvania State Police under section 2104 (relating to powers and duties of Pennsylvania State Police), individual troopers are authorized and empowered:

(1) To make arrests, without warrant, for all violations of the law, including laws regulating the use of the highways, which they may witness, and to serve and execute warrants issued by the proper local authorities. They shall have all the powers and prerogatives

conferred by law upon members of the police force of cities of the first class, and upon constables of the Commonwealth;

(2) To act as game protectors, and as forest, fish, or fire wardens, and for the better performance of those duties, to:

(i) Seize all guns, boats, decoys, traps, dogs, game, fish, shooting paraphernalia, or hunting or fishing appliances or devices, used, taken, or had in possession, contrary to the laws of this Commonwealth. Any article seized shall be held subject to disposition as the determined respectively by the Executive Director of the Pennsylvania Fish and Boat Commission, the Executive Director of the Pennsylvania Game Commission, or the Secretary of the Department of Conservation and Natural Resources.

(ii) Seize and take possession of all birds, animals, or fish, which have been taken, caught or killed, or had in possession, or under control, or which have been shipped, or are about to be shipped, contrary to any law of this Commonwealth.

(iii) Search without warrant any boat, conveyance, vehicle or receptacle, when there is good reason to believe that any law has been violated, the enforcement or administration of which is imposed on or vested in the Pennsylvania Fish and Boat Commission, the Pennsylvania Game Commission, or in the Department of Conservation and Natural Resources.

(iv) Serve subpoenas issued before any examination, investigation, or trial pursuant to any law enforced under this paragraph.

(v) Purchase game or fish for the purpose of securing evidence.

#### **SOURCE**

Paragraphs (1) and (2) of section 2105 derived respectively from subsection 712(a) and (b) of the AC1929, 71 P.S. § 252(a) and (b).

§ 2106. Mandatory retirement.

(a) General rule.—Except the commissioner and deputy commission, any trooper, regardless of rank, who has attained or who shall attain the age of 60 years, shall resign from membership in the State Police.

(b) Exception.—Subsection (a) shall not apply to troopers who upon attaining the age of 60 years shall have less than 20 years of service. Upon completion of 20 years of service, subsection (a) shall become applicable to those persons.

**SOURCE**

Section 2106 derived from subsection 205(d) of the AC1929, 71 P.S. § 65(d).

§ 2107. Court-martial.

(a) General rule.—Subject to the provisions of 44 Pa.C.S. § 2101(c) (relating to probationary period), no trooper of the Pennsylvania State Police shall be dismissed from service or reduced in rank except by action of a court martial board held upon the recommendation of the Commissioner of the Pennsylvania State Police and the Governor.

(b) Initiating charges.--Before any trooper who has not reached mandatory retirement age is dismissed or refused reenlistment by the commissioner, the commissioner shall furnish the trooper with a detailed written statement of the charges upon which his dismissal or refusal of reenlistment is based, together with a written notice, signed by the commissioner or the proper authority, of a time and place where such trooper will be given an opportunity to be heard either in person or by counsel, or both, before a court-martial board appointed by the commissioner.

(c) Hearing procedures.—The hearing authorized in subsection (b) shall be held before a court-martial board consisting of three commissioned officers and subject to the following procedural requirements:

(1) The hearing shall not be sooner than 10 days nor later than 30 days after written notice of the hearing is given.

(2) All testimony offered at the hearing, including that of complainants and their witnesses as well as that of the accused trooper and his witnesses, shall be recorded by a competent stenographer whose services shall be furnished by the Pennsylvania State Police at its expense.

(3) Any hearing may be postponed, continued or adjourned by agreement of the person charged and the Court-martial Board with approval of the commissioner.

(4) If the hearing is postponed, continued or adjourned and any testimony has been taken, then a free copy of a transcript of the testimony shall be given to the accused if he makes a request therefor.

(d) Power of subpoena.--The court-martial board shall have power to issue subpoenas requiring the attendance of witnesses at any hearing and shall do so at the request of the party against whom a complaint is made. If any person refuses to appear and testify in answer to any subpoena issued by the board, any party interested may petition the court of common pleas of the county wherein the hearing is to be held setting forth the facts. The court shall thereupon issue its subpoena commanding the person subject to the subpoena to appear before the court-martial board, there to testify as to the matters being inquired into. Any person refusing to testify before the court-martial board may be held for contempt by the court of common pleas. All testimony at any hearing shall be taken under oath and any member of the court-martial board shall have power to administer oaths to such witnesses.

(e) Court-martial board deliberations.--After fully hearing the charges or complaints and hearing all witnesses produced by the court-martial board and the person against whom the charges are pending, and after full, impartial and unbiased consideration thereof, the court-martial board

shall, by a two-thirds vote of all members thereof taken by a closed-secret vote and the total results thereof to be recorded, determine whether or not the charges or complaints have been sustained and whether the evidence substantiates the charges and complaints, and in accordance with that determination, shall recommend to the commissioner the discharge, demotion or refusal of reenlistment of the trooper. If one member of the court-martial board dissents from the findings of the other members, that person may state the reason for disagreement which shall be made a part of the record.

(f) Report of findings to the commissioner.--Reports of findings of the court-martial board shall not be made public before acted upon by the commissioner. The court-martial board shall submit all records of the trial to the commissioner for review.

(g) Commissioner's review and decision.--A written notice of any decision of the commissioner discharging, demoting or refusing the reenlistment of any member, together with a free copy of a transcript of the notes of testimony, shall be sent by registered mail to the trooper at his last known address within 30 days after the hearing is actually concluded. The commissioner may, in his discretion, follow or disregard the recommendations of the court-martial board. In all cases where the final decision is in favor of the trooper, the records in the files of the Pennsylvania State Police shall reflect accordingly.

(h) Appeal.--An appeal may be taken by the trooper to the Commonwealth Court pursuant to 2 Pa.C.S. Ch. 7, Subch. A (relating to judicial review of Commonwealth agency action).

#### **SOURCE**

Subsection (a) derived from subsection 205(e) and paragraph 711(b)(4) of the AC1929, 71 P.S. §§ 65(e) and 251(b)(4). Subsections (b) and (c) derived from paragraph 711(b)(1) of the AC1929, 71 P.S. § 251(b)(1). Subsections (d), (e), (f) and (g) derived from paragraph 711(b)(2) of the AC1929, 71 P.S. § 251(b)(2). Subsection (h) derived from paragraph 711(b)(3) of the AC1929, 71 P.S. § 251(b)(3).

## NOTE

Paragraph 711(b)(3) of the AC1929 provides for an appeal of a court-martial “to the Court of Common Pleas of Dauphin County in accordance with the provisions of the act of June 4, 1945 (P.L.1388), and its amendments, known as the ‘Administrative Agency Law’.” The 1945 Administrative Agency Law was repealed and replaced in the codification of Title 2 (relating to administrative law and procedure) of the Pennsylvania Consolidated Statutes by the act of April 28, 1978 (P.L. 202, No. 53) known as the Judiciary Act Repealer Act (JARA). 2 Pa.C.S. § 103(a) provides that

The provisions of Subchapter A of Chapter 5 (relating to practice and procedure of Commonwealth agencies) and Subchapter A of Chapter 7 (relating to judicial review of Commonwealth agency action) shall be known and may be cited as the “Administrative Agency Law.”

In the case of an appeal from a Pennsylvania State Police court-martial, Subchapter A of Chapter 7 would be applicable.

The Resident State Trooper Program established in §713 of the AC1929, 71 P.S. § 253, provided for state troopers to be assigned on a regular basis to a borough or township via a contract to provide police protection to the municipality. Added to the AC1929 by the act of July 11, 1991 (P.L. 73, No. 12), subsection (d) provided that the section would expire on December 31, 1992 unless reenacted by the General Assembly. As no reenactment has been found, this section is repealed under this act as obsolete.

Section 9. The headings of Chapters 51 and 53 of Part III (relating to incarceration) of Title 44 of the Pennsylvania Consolidated Statutes are renumbered to read:

Chapter [51] 31. Preliminary Provisions (Reserved)

Chapter [53] 33. Recidivism Risk Reduction Incentive (Repealed)

Section 10. Part IV of Title 44 is amended by adding a new Chapter 51 immediately before Chapter 71 (relating to constables) to read:

### PART IV

#### OTHER OFFICERS AND OFFICIALS

#### CHAPTER 51

#### COMMONWEALTH BUILDINGS AND GROUNDS

Sec.

5101. Definitions.

5102. Appointment of Capitol Police and Commonwealth Property Police

5103. Appointment of Capitol Police and Commonwealth Property Police

5104. Powers and duties of Capitol Police and Commonwealth Property Police and Campus Police

5105. Additional powers and duties of Campus Police

5106. State institutional police

§ 5101. Definitions.--The following words and phrases, when used in this chapter shall have the meanings set forth in this section, unless the context clearly indicates otherwise:

“Campus police.” All law enforcement personnel employed by a state college or university, state-aided or state-related college or university or community college.

“Commonwealth property.” The following buildings and grounds:

- (1) The Capitol building and grounds.
- (2) State buildings and grounds in Dauphin County.
- (3) The Pittsburgh State Office Building and grounds.
- (4) The Philadelphia State Office Building and grounds.

“Community college.” A institution created and organized under the act of August 24, 1963 (P.L.1132, No.484), known as the Community College Act of 1963.

“Institution of higher education” or “institution.” A state college or university, state-aided or state-related college or university or community college.

“State college or university.” The following institutions of higher education:

- (1) Those institutions of higher education comprising the Pennsylvania State System of Higher Education under Article XX-A of the act of March 10,1949 (P.L.30, No.14), known as the Public School Code of 1949.

(2) Thaddeus Stevens College of Technology operated by the Commonwealth under Article XIX-B of the Public School Code of 1949.

“State-aided college or university.” The following institutions of higher education:

- (1) Drexel University.
- (2) Johnson College.
- (3) Lake Erie College of Osteopathic Medicine.
- (4) Philadelphia College of Osteopathic Medicine.
- (5) Salus University.
- (6) Thomas Jefferson University.
- (7) University of Pennsylvania.
- (8) The University of the Arts.

“State-related college or university.” The following institutions of higher education and all their affiliates and branch campuses:

- (1) Pennsylvania State University.
- (2) University of Pittsburgh.
- (3) Temple University.
- (4) Lincoln University.

#### **SOURCE**

The list of state-aided colleges and universities was compiled the Pennsylvania Department of Education’s database of educational institutions and § 9 of the act of July 17, 1961 (P.L. 776, No. 341), 24 P.S. § 5009, known as the Pennsylvania Fair Educational Opportunities Act.

§ 5102. Appointment of Capitol Police and Commonwealth Property Police.

(a) Appointing authority.—The Department of General Services may employ any captains, sergeants of police and police officers as may be necessary to preserve good order on Commonwealth properties, to be known as the Capitol Police and Commonwealth Property Police.

(b) Hours and compensation.--The number and compensation of the Capitol Police and Commonwealth Property Police shall be subject to the approval of the Governor.

(c) Limitation on hours. –Hours of employment shall not be spread over more than five days in any one week except in the case of an emergency.

#### **SOURCE**

Subsection (a) derived from §§ 2402(b) and 2416(a) of the AC1929, 71 P.S. § 632(b) and 646(a); Subsections (b) and (c) derived from § 2402(b) of Admin Code, 71 P.S. § 632(b).

#### **§ 5103. Appointment of Campus Police**

(a) Appointing authority.—An institution of higher education may employ campus police.

(b) Training.—All campus police shall successfully complete course of training approved under 53 Pa.C.S. Ch. 21, Subch. D (relating to municipal police education and training).

#### **SOURCE**

Subsection (a) derived from §2416(a) of the AC1929, 71 P.S. § 646(a). Subsections (b) derived from §2416.1(d) of the Admin Code, 71 P.S. § 646.1(b) and § 2001-A(a)(20) of the Public School Code of 1949, 24 P.S. § 20-2001-A(a)(20).

#### **NOTE**

The last paragraph of § 2416 of the Admin Code was enacted in 1965, and called for campus police to complete a course of training, including crisis intervention training and riot control as approved by the Pennsylvania Department of Education. This provision has been repealed as obsolete and superseded by later amendments to AC1929 and the Public School Code of 1949, and replaced with a reference to the municipal police education and training provisions of Title 53. AC1929 § 2416.1 was enacted in 1997 and provided that law enforcement personnel at state-aided and state-related colleges and universities were required to complete a course of training in 53 Pa.C.S. Ch. 21, Subch. D (“MPOETC training”). Originally enacted in 1974, the Municipal Police Education and Training Law specifically

exempted campus police at state colleges and universities that were part of the State System of Higher Education (PASSHE) from the provisions of the act. In 2003, the provisions of the Public School Code of 1949 governing PASSHE were amended to require campus police at PASSHE colleges and universities to comply with MPOETC training. In 2020, the only colleges or universities that were still governed by AC1929 §2416 and were not covered by MPOETC were community colleges. Subsection (b) brings community colleges under this training umbrella as well.

Campus police at private colleges and universities would meet the definition of privately employed agents and be subject to training under 22 Pa.C.S. Ch. 1, Subch. B (relating to lethal weapons training).

§ 5104. Powers and duties of Capitol Police and Commonwealth Property Police and Campus Police

Capitol Police and Commonwealth Property Police and Campus Police shall have the following powers and duties with respect to the properties under their jurisdiction:

(1) to enforce good order on the grounds and in the buildings of the Commonwealth property or institution;

(2) to protect the grounds and buildings of the Commonwealth property or institution;

(3) to exclude all disorderly persons from the grounds and buildings of the Commonwealth property or institution;

(4) to adopt means necessary for the performance of their duties;

(5) to exercise the same powers as are now or may hereafter be exercised under authority of law or ordinance by the police of the municipalities wherein the Commonwealth property or institution is, including, but not limited to, those powers conferred pursuant to 42 Pa.C.S. Ch. 89 Subch. D (relating to municipal police jurisdiction);

(6) to order off the grounds and out of the buildings of the institution all trespassers and persons under the influence of alcohol or controlled substances and, if necessary, remove them by force and, in case of resistance, carry them before a magisterial district judge; and

(7) to arrest any person who damages, mutilates or destroys the trees, plants, shrubbery, turf, grass-plots, benches, buildings or structures of the Commonwealth property or institution or commits any other offense, including threats or acts of terrorism, on the grounds and in the buildings of the Commonwealth property or institution and carry that person before the proper magisterial district judge and prefer charges against that person under the laws of this Commonwealth.

### **SOURCE**

Paragraphs (1), (2), (3), (4), (5), (6) and (7) derived, respectively from § 2416 (a), (b), (c), (d), (e), (g) and (h) of the AC1929, § 2416.1 (a)(1), (a)(2), (a)(3), (a)(4), (a)(5), (a)(7) and (a)(8), 71 P.S. 646.1 (a)(1)-(a)(5), (a)(7) and (a)(8) of the AC1929 and § 2019-A(a)(1), (a)(2), (a)(3), (a)(4), (a)(5), (a)(7) and (a)(8) of the Public School Code of 1949, 24 P.S. § 20-2019-A(a)(1)-(a)(5), (a)(7) and (a)(8). Paragraph (7) is also derived from the act of June 8, 1881 (P.L.67, No.72) which authorizes “the superintendent and watchmen” of the Capitol grounds and buildings to arrest individuals within the buildings and grounds in the same manner as a constable or policeman in the city of Harrisburg. This provision is superseded by the AC1929 and is repealed as obsolete.

#### § 5105. Additional powers and duties of Campus Police.

(a) General rule.--Campus police shall have all the powers and duties set forth in section 5104 (relating to powers and duties of Capitol Police and Commonwealth Police and Campus Police) in addition to the powers and duties conferred by this section.

(b) Jurisdiction for criminal offenses.—Campus police shall have the duty to prevent crime, investigate criminal acts, apprehend, arrest and charge criminal offenders and issue summary citations for acts committed on the grounds of the institution and carry the criminal offenders before the proper magisterial district judge and prefer charges against them under the laws of this Commonwealth. Except when acting pursuant to 42 Pa.C.S. Ch. 89 Subch. D (relating to municipal police jurisdiction), campus police shall exercise these powers and perform these duties only on the grounds of the institution. For the purposes of applying the provisions of 42 Pa.C.S. Ch. 89

Subch. D, the grounds of the institution shall constitute the primary jurisdiction of the campus police.

(c) Agreements with local municipalities.--An institution is authorized to enter into an agreement with the municipalities overlain by or abutting its campus to exercise concurrently those powers and to perform those duties conferred pursuant to a cooperative police service agreement in accordance with 42 Pa.C.S. § 8953 (relating to Statewide municipal police jurisdiction). When so acting, the campus police of the institution shall have the same powers, immunities and benefits granted to police officers in 42 Pa.C.S. Ch. 89 Subch. D. All such agreements shall be consistent with the mission and purpose of the system.

(d) Scope of employment.--When acting within the scope of the authority of this section, campus police are at all times employees of the institution and shall be entitled to all of the rights accruing therefrom.

(e) Dissemination of investigative information.—Campus police at state colleges and universities may disseminate investigative information as defined in 18 Pa.C.S. § 9102 (relating to definitions) to university officials for use in student disciplinary matters subject to 22 Pa. Code Ch. 505 (relating to student personnel). Notwithstanding this section, all other provisions of 18 Pa.C.S. Ch. 91 (relating to criminal history record information) shall apply to campus police at state colleges and universities.

#### **SOURCE**

Subsection (b) is derived from § 2416.1(a)(6) of the AC1929, 71 P.S. § 646.1(a)(6) and § 2019-A(a)(6) of the Public School Code of 1949, 24 P.S. § 20-2019-A(a)(6). Subsections (c) and (d) derived, respectively, from § 2416.1(b) and (c) of the AC1929, 71 P.S. § 646.1(b) and (c), and § 2019-A(b) and (c) of the Public School Code of 1949, 24 P.S. § 20-2019-A(b) and (c). Subsection (e) is derived from § 2019-A(d) of the Public School Code of 1949, 24 P.S. § 20-2019-A(d).

## NOTE

The last paragraph of section 2416 of AC1929 authorized campus police at state owned colleges and universities (i.e., PASSHE schools) to assist local police upon request in an emergency, and that in that capacity, were considered to be State employees. This provision has been repealed as obsolete and superseded by § 2416.1 of the AC1929 and § 2019-A of the Public School Code of 1949.

### § 5106. State institutional police.

(a) Appointment of institutional police.—The head of an administrative department may request that the Governor appoint employees selected by the administrative head to serve as police officers for that institution. Upon approval by the Governor of the persons designated, the Governor shall commission each individual.

(b) Powers and duties.—Law enforcement personnel appointed under this chapter have the following powers and duties to:

(1) Make arrests, without warrant, for all violations of law which they may witness upon any part of the premises of the institution at which they are employed;

(2) Arrest, with or without warrant, anywhere within this Commonwealth, any inmate or other person confined to an institution that may have escaped and to return the person to the institution.

(3) On the premises of the institution at which they are employed, have all the powers and prerogatives conferred by law upon constables of the Commonwealth.

(4) Serve and execute warrants issued by the proper local authorities for any violation of law committed on the premises of the institution.

(c) Use of local jails.—Consistent with the provisions of 61 Pa.C.S. § 1154 (relating to use of county correctional institutions) a police officer appointed under this section shall have the authority to deliver a person arrested by the police officer to a borough or township lockup or

county correctional institution for a period not to exceed 48 hours, for the detention of the person so arrested until they can be disposed of according to law.

(d) Use of firearms.—Any law enforcement personnel appointed under this section who are authorized by an administrative department to carry or use a firearm in the performance of any duties under this section shall obtain training and certification or qualification as follows:

(1) Law enforcement personnel employed at a state correctional institution shall undergo training under the direction and supervision of the Pennsylvania Department of Corrections.

(2) Law enforcement personnel employed at a state institution shall undergo training pursuant to the standards established by the Constables' Education and Training Board pursuant to 44 Pa.C.S. § 7148 (relating to use of firearms).

(e) Definitions.— The following words and phrases, when used in this section, shall have the meanings given to them in this subsection:

“Institution.” A state correctional institution or State institution.

“State correctional institution.” A correctional facility, prison or jail owned or operated by the Commonwealth.

“State institution.”

(1) A facility maintained in whole or in part by the Commonwealth, the board of directors, trustees, managers or inspectors of which is appointed by the Governor that is:

(i) A state center that serves individuals with intellectual disabilities,

(ii) A youth development center or youth forestry camp that serves youth adjudicated delinquent,

(iii) A state hospital providing psychiatric treatment and substance use disorder treatment services to individuals with mental illness,

(iv) Any other charitable institution; or

(2) Any building or installation owned by the Commonwealth, or the protection of which

is the responsibility of the administrative department.

### **SOURCE**

Subsections (a) and (c) derived respectively from sections 1 and 2 of the act of May 21, 1943 (P.L. 469, No. 210), 71 P.S. §§ 1791 and 1792. Subsection (b) is derived from sections 1 and 1.1 of the 1943 act, 71 P.S. § 1791 and 1791.1. Subsection (d) is new. The definition of state correctional institution is derived from 61 Pa.C.S. § 102. The definition of “state institution” in paragraph (e)(1) is derived from section 1 of the 1943 act, 71 P.S. § 1791, § 401 of AC1929, 71 P.S. § 111, section 8 of the act of May 25, 1921 (P.L. 1144, No. 425), 71 P.S. § 1468, and § 301 of the act of June 13, 1967 (P.L. 31, No. 21) of the Human Services Code, 62 P.S. § 301. The definition of state institution in paragraph (e)(2) is derive from section 1.1 of the 1943 act.

### **COMMENT**

Under Pennsylvania law, constables are not required to carry firearms. However, if they choose to do so, they must receive appropriate training. As the state institutional police authorized by this chapter are authorized to exercise all the powers and duties of a constable, new subsection (d)(2) was created to acknowledge the need for training if a police officer employed at a state institution is to carry or use a firearm.

### **NOTE**

At various times in the Commonwealth’s history, state institutions have been defined and identified by terms that under contemporary standards are considered pejorative. These terms still exist in a number of state statutes, including the 1943 act upon which this section is primarily based. In order to modernize the language used to refer to state institutions, the descriptors used by the Department of Human Services (DHS) in its Bureau of State Operated Facilities have been adopted. As of late 2020, the Department of Human Services operates four **state centers**: Ebsenburg in Cambria County, Polk in Venango County, Selinsgrove in Snyder County, and White Haven in Luzerne County. DHS operates six **state hospitals** at Clarks Summit in Lackawanna County, Danville in Montour County, Torrance in Westmoreland County, Warren in Warren County, and Wernersville in Berks County. Additionally, DHS operates South Mountain Restoration Center in Franklin County as a long-term care facility for persons with psychiatric needs. Additionally, DHS operates three **youth development centers**: South Mountain Secure Treatment Unit in Franklin County, the North Central Secure Treatment Unit in Montour County, and the Loysville Youth Development Center in Perry

County. The two **youth forestry camps** under DHS jurisdiction are Youth Forestry Camp #2 in Hickory Run State Park in Luzerne County and Youth Forestry Camp #3 in Trough Creek State Park in Huntingdon County.

Additionally, the language referring to “penal, reformatory, or correctional institution” in the 1943 act was updated to “State correctional institution” as used in the Prisons and Parole Code (Title 61 of the Pennsylvania Consolidated Statutes).

Section 12. Chapter 74, Subchapter A of Part IV of Title 44 is amended to read:

SUBCHAPTER A

GENERAL PROVISIONS [(RESERVED)]

Sec.

7401. Election of sheriff.

7402. Appointment of deputy sheriffs in counties of the second through eighth class.

7403. Appointment of deputy sheriffs in cities of the first class.

§ 7401. Election of sheriff.

(a) County officer.—A sheriff is a county officer, to be elected at the municipal elections.

(b) Term of office.—A Sheriff shall serve for a term of four years, and until a successor is duly qualified.

**SOURCE**

Section 7401 derived from Article IX, § 4 (County Government) of the Pennsylvania Constitution, and is new.

§ 7402. Appointment of deputy sheriffs in counties of the second class through eighth class.

Deputy sheriffs appointed in counties of the second through eighth class shall be appointed under the provisions of either:

(1) Article XII-A of the act of August 9, 1955 (P.L.323, No.130).

(2) Article XII of the act of July 28, 1953 (P.L.723, No.230), known as the Second Class

County Code.

### **SOURCE**

Section 7402 is new and merely provides a cross-reference to the county code provisions that govern sheriffs and deputy sheriffs in all counties except counties of the first class.

§ 7403. Appointment of deputy sheriffs in cities of the first class.

(a) Applicability.--The provisions of this section shall apply to cities of the first class only.

### **NOTE**

Amendments to the Pennsylvania Constitution in 1968 abolished all county offices in Philadelphia, with the city granted the authority to perform all functions of county government. Specifically, Article IX, 3(f) provides:

Upon adoption of this amendment all county officers shall become officers of the City of Philadelphia, and until the General Assembly shall otherwise provide, shall continue to perform their duties and be elected, appointed, compensated and organized in such manner as may be provided by the provisions of this Constitution and the laws of the Commonwealth in effect at the time this amendment becomes effective, but such officers serving when this amendment becomes effective shall be permitted to complete their terms.

Several pre-1968 statutes existed that were applicable to first class county sheriffs and that by operation of the 1968 constitutional amendments, became applicable to first class city sheriffs. Since at least as early as The General County Law of 1929, counties of the first class have been exempted from statutes governing other counties. The General County Law, and its successor statutes, the County Code of 1955 and the Second Class County Code of 1953, have included provisions regarding the powers and duties of sheriffs and deputy sheriffs in second through eighth class counties. The assorted statutes governing the role of sheriffs in first class counties have not been so organized previously. This subchapter parallels the provisions of the County and Second Class County Codes regarding sheriffs and deputy sheriffs and consolidates and repeals those free-standing statutes applicable to sheriffs in first class counties.

(b) Unfinished business of outgoing sheriff.—The following shall apply to the transition of business from an outgoing sheriff to an incoming sheriff:

(1) It shall be the duty of every outgoing sheriff to deliver all unfinished and unexecuted writs and process whatsoever to the sheriff's successor whose duty it shall be to receive and execute the same as if the writs and process had been originally issued and directed to the successor, and to carry out and complete all other official duties of the predecessor.

(2) Whenever any real estate shall be sold under any execution by a sheriff who shall, in any lawful manner, be succeeded in office before any deed shall be executed and acknowledged by the sheriff in due form of law for such real estate, the sheriff's successor in office shall have the same power and be under the same duty to execute and acknowledge a deed for such real estate to the purchaser as the sheriff selling such real estate under execution if the sheriff were still in office, which deed so executed shall be as effectual in law as if the title had been completed by the former sheriff.

(3) No court order shall be necessary in any event to authorize an incoming sheriff to carry out the duties as prescribed by this section.

#### **SOURCE**

Section 7403(b) derived from § 1 of the act of April 5, 1927 (P.L. 114, No. 78); 16 P.S. § 7522.

(c) Sheriff may act by deputy.--Whenever the sheriff is or shall be required by law to act in person under or by virtue of any writ or process issued by the courts of this Commonwealth, the sheriff may act either in person or by a regularly appointed deputy sheriff.

#### **COMMENT**

The County Code, at § 1202-A and the Second Class County Code, at § 1202, both contain these exact words. Those counties were originally subject to the act of May 17, 1917 (P.L. 237, No. 129) which read:

Be it enacted, &c., That, from and after the passage of this act, in all cases in which the sheriff of any county in this Commonwealth is or

shall be required by existing laws to act in person, under any writ of inquisition, condemnation, inquiry of damages, lunacy, or habitual drunkard proceedings, partition proceedings, or by virtue of any other writ or process issued by the courts of this Commonwealth, the said sheriff may act either in person or by regularly appointed deputy sheriff.

Both County Codes repealed the 1917 act as it applied to the counties under their purview, and updated this provision to more accurately reflect the type of service of process sheriffs could make. This left the 1917 statute applicable only to counties of the first class. The 1917 act was repealed by the Judiciary Act Repealer Act of 1978 (JARA). JARA repealed numerous statutes affecting judicial process in Pennsylvania and the 1917 statute most likely fell because of its itemized list of archaic writs and proceedings that had long been abolished. While the provisions of §§ 7403(d) and 7403(e) added below imply that deputy sheriffs can do all things a sheriff can do in person, codifying this provision as applicable to sheriffs in cities of the first class reiterates more clearly the authority of a deputy sheriff to act for the sheriff.

(d) Chief deputy.--By commission duty recorded in the office for recording deeds, the sheriff of each city of the first class shall appoint a chief deputy whose appointment shall be revocable by the sheriff on recording in the office for recording deeds a signed revocation. During continuance in office, the chief deputy shall have full power and authority to perform any duty incumbent upon the sheriff, with like effect in law as if such official act had been done by the sheriff in person, regardless of the ability or temporary disability of the sheriff to act, while the sheriff continues in office. Nothing in this section shall operate to relieve such sheriff or the sheriff's sureties from liability upon their official bond.

#### **SOURCE**

§ 7403(d) derived from § 1 of the act of May 24, 1887 (P.L. 185, No. 126), 16 P.S. § 7519 and § 1 of the act of May 23, 1923 (P.L. 349, No. 221), 16 P.S. § 7520.

(e) Real estate deputies.--The sheriff may have a real estate deputy to take charge of all matters relating to sheriff's sales of real estate and distributions of the proceeds thereof, whose appointment shall be made and be revocable as provided for the chief deputy. The deputy shall have full power

to perform all duties incumbent upon the sheriff in like manner as the chief deputy with like effect in law as if such official acts had been done by the sheriff in person. The duties shall include the execution and acknowledgment of sheriff's deeds for real estate upon receipt of the purchase price. Nothing in this act shall operate to relieve the sheriff or the sheriff's sureties from liability upon their official bonds.

### **SOURCE**

§ 7403(e) derived from § 1 of the act of April 4, 1929 (P.L. 163, No. 158), 16 P.S. § 7517.

### **NOTE**

Section 2 of the act of April 4, 1929 (P.L. 163, No. 158), 16 P.S. § 7518, limits the salary of the real estate deputy to \$7,500 per year. Similarly, the act of May 13, 1927 (P.L. 994, No. 483), 16 P.S. § 7521, limits the salary of the chief deputy to \$7,500 per year. Both of these provisions are repealed as obsolete, in that the salaries of deputy sheriffs in Philadelphia, the only city of the first class, are set by the City's Civil Service Commission.

(f) Deputy sheriff's qualifications.--A sheriff shall not appoint any person a chief deputy or any other deputy sheriff unless the sheriff files with the prothonotary, prior to the appointment of the person, the name and photograph of the person, together with an affidavit of the person setting forth the following:

- (1) The person's full name, age and residence address.
- (2) That the person is a citizen of the United States and 18 years of age or older.
- (3) That the person has never been convicted of a crime involving moral turpitude under the laws of this Commonwealth, or of any other state, or of the United States.
- (4) That the person has not, for a period of two years immediately preceding the filing of the affidavit, acted either individually or as the agent or employee of another, in any labor dispute, or provided any service as a private detective, private police officer or private guard

in any labor dispute, or received any fee or compensation whatsoever for acting as a private detective, private police officer or private guard in any labor dispute, or conducted the business of a private detective agency, or of any agency supplying private detectives, private police officers or private guards, or advertised or solicited any such business in this Commonwealth in connection with any labor dispute.

#### **SOURCE**

Section 7403(f) derived from § 1 of the act of June 4, 1937 (P.L. 1595, No. 324), 16 P.S. § 7510. The 1937 act originally applied to all counties, but was repealed over time as to all counties but those of the first class. The act of June 23, 1931 (P.L. 929, No. 312), 16 P.S. § 7509 provided that deputy sheriffs be a citizen and resident for one year immediately preceding the person's appointment as a deputy, and that they could not be appointed as a deputy if they had been, within the immediately preceding 10 years, convicted of any crime under the laws of the Commonwealth for which the penalty was imprisonment of more than one year. The provisions of the 1937 act found in paragraphs (2) and (3) superseded the 1931 act and the 1931 act has been repealed as obsolete.

(g) Deputy sheriff's affidavit.--Any false statement contained in any affidavit shall constitute and shall be punishable as perjury. The name, photograph and affidavit of any person filed with the prothonotary under subsection (f) shall constitute a public record.

#### **SOURCE**

The first sentence of section 7403(g) is derived from § 2 of the act of June 4, 1937 (P.L. 1595, No. 324), 16 P.S. § 7511. The second sentence of section 7403(g) is derived from § 3 of the act of June 4, 1937 (P.L. 1595, No. 324), 16 P.S. § 7512.

(h) Public list of applicants for deputy sheriff.--From time to time, the sheriff shall prepare a list of the names of all persons who have applied for appointment as deputy sheriff and who meet the qualifications for the position. The list shall be posted in a public place for a period of not less than 10 days, and thereafter shall be filed in the office of the prothonotary. No deputies shall be appointed by the sheriff whose names do not appear on the list.

## SOURCE

Section 7403(h) is derived from § 4 of the act of June 4, 1937 (P.L. 1595, No. 324), 16 P.S. § 7513.

(i) Private services, gifts and payments prohibited. The following prohibitions apply under this section:

(1) No sheriff, deputy sheriff, detective or other police officer whatsoever shall perform, directly or indirectly, any official services or official duties for any person, association or corporation, or receive, directly or indirectly, any compensation, gifts or gratuities from any person, association or corporation during the period of official services. Nothing herein contained shall prohibit the officers from serving writs and other legal process as authorized by law. Any compensation payable to any officer for official duties and services shall be paid only out of the proper public funds, to the amount and in the manner prescribed by law. Gifts, donations and gratuities of any nature whatsoever made by any person, association or corporation to the city or to any official or agent thereof, shall not constitute public funds within the meaning of this section.

(2) No city of the first class, or any official or agent thereof, shall accept as a gratuity, gift or donation any arms, ammunition, military supplies, tear gas or equipment, or supplies or articles of a similar character from, nor shall any such gratuity, gift or donation be made by any person, association or corporation.

(3) Contract or agreement void.--Any contract or agreement, whatsoever, made in violation of the provisions of this section, shall be utterly void and of no effect, and is hereby declared to be contrary to public policy.

### **SOURCE**

Section 7403(i) is derived from § 5 of the act of June 4, 1937 (P.L. 1595, No. 324), 16 P.S. § 7514.

(j) Penalties.--A sheriff, deputy sheriff or other city police officer or any other official of the city of the first class or any person, association or corporation, who violates the provisions of this subchapter commits a misdemeanor and shall, upon conviction, be sentenced to pay a fine of not less than \$100 nor more than \$500, or to undergo imprisonment for not less than 90 days nor more than two years, or both.

### **SOURCE**

Section 7403(j) is derived from § 6 of the act of June 4, 1937 (P.L. 1595, No. 324), 16 P.S. § 7515.

(k) Construction.--Nothing contained in this subchapter shall be construed to prohibit:

(1) The appointment, employment or compensation by any city of the first class in the manner expressly provided by law of:

(i) Private police appointed pursuant to 22 Pa.C.S. § 501 (relating to appointment by nonprofit corporations).

(ii) Public transportation system police appointed pursuant to 22 Pa.C.S. Ch. 33 (relating to public transportation system police).

(iii) Fire police whose only duty shall be to direct traffic and maintain order to, at or from fires.

(2) The payment by any person, association or corporation of fees or compensation for city police or other peace officers assigned to exhibitions, athletic contests or other recreational activities.

## SOURCE

Section 7403(k) is derived from § 7 of the act of June 4, 1937 (P.L. 1595, No. 324), 16 P.S. § 7516.

Section 13. The addition of 22 Pa.C.S. Ch. 1, Subch. B is a continuation of the act of October 10, 1974 (P.L.705, No.235), known as the Lethal Weapons Training Act.

The following apply:

(1) Except as otherwise provided in 22 Pa.C.S. Ch. 1 Subch. B, all activities initiated under the Lethal Weapons Training Act shall continue and remain in full force and effect and may be completed under 22 Pa.C.S. Ch. 1 Subch.B. Resolutions, orders, regulations, rules and decisions which were made under the Lethal Weapons Training Act and which are in effect on the effective date of this section shall remain in full force and effect until revoked, vacated or modified under 22 Pa.C.S. Ch. 1 Subch. B. Contracts, obligations and agreements entered into under the Lethal Weapons Training Act are not affected or impaired by the repeal of the Lethal Weapons Training Act.

(2) Except as specified in paragraph (3) any difference in language between 22 Pa.C.S. Ch. 1, Subch. b and the Lethal Weapons Training Act is intended to conform to the style of the Pennsylvania Consolidated Statutes and is not intended to change or affect the legislative intent, judicial construction or administration interpretation and implementation of the Lethal Weapons Training Act.

(3) The following provision of the Lethal Weapons Training Act are obsolete and excluded from the addition of 22 Pa.C.S. Ch. 1 Subch. B:

(i) The language in Section 5(2) providing an exemption from physical or psychological testing or screening testing for persons “who have been continuously employed as full-time police officers since June 18, 1974.”

(4) A reference in any other act or regulation to the Lethal Weapons Training Act shall be deemed to be a reference to 22 Pa.C.S. Ch. 1, Subch. B.

Section 14. The addition of 22 Pa.C.S. § 3306 is a continuation of the act of April 12, 1957 (P.L.61, No.34), referred to as the Delaware River Port Authority police law.

The following apply:

(1) Except as otherwise provided in 22 Pa.C.S. § 3306, all activities initiated under the Delaware River Port Authority police law shall continue and remain in full force and effect and may be completed under 22 Pa.C.S. § 3306. Resolutions, orders, regulations, rules and decisions which were made under the Delaware River Port Authority police law and which are in effect on the effective date of this section shall remain in full force and effect until revoked, vacated or modified under 22 Pa.C.S. § 3306. Contracts, obligations and agreements entered into under the Delaware River Port Authority police law are not affected or impaired by the repeal of the Delaware River Authority police law.

(2) Except as provided in paragraph 3, any difference in language between 22 Pa.C.S. § 3306 and the Delaware River Port Authority police law is intended to conform to the style of the Pennsylvania Consolidated Statutes and is not intended to change or affect the legislative intent, judicial construction or administration interpretation and implementation of the Delaware River Port Authority police law.

(3) The following provisions of the Delaware River Port Authority police law are obsolete and excluded from the addition of 22 Pa.C.S. § 3306:

(i) Section 3, relating to repeals.

(ii) Section 4, relating to effective date.

(4) A reference in any other act or regulation to the Delaware River Port Authority police law shall be deemed to be a reference to 22 Pa.C.S. § 3306.

Section 15. The addition of 22 Pa.C.S. § 3307 is a continuation of the act of March 21, 1929 (P.L. 41, No.38) and the act of April 17, 1945 (P.L. 236, No.106).

The following apply:

(1) Except as otherwise provided in 22 Pa.C.S. § 3307, all activities initiated under the act of March 21, 1929 (P.L. 41, No.38) and the act of April 17, 1945 (P.L. 236, No.106) shall continue and remain in full force and effect and may be completed under 22 Pa.C.S. § 3307. Resolutions, orders, regulations, rules and decisions which were made under the act of March 21, 1929 (P.L. 41, No.38) and the act of April 17, 1945 (P.L. 236, No.106) and which are in effect on the effective date of this section shall remain in full force and effect until revoked, vacated or modified under 22 Pa.C.S. § 3307. Contracts, obligations and agreements entered into under the act of March 21, 1929 (P.L. 41, No.38) and the act of April 17, 1945 (P.L. 236, No.106) are not affected or impaired by the repeal of the act of March 21, 1929 (P.L. 41, No.38) or the act of April 17, 1945 (P.L. 236, No.106).

(2) Except as provided in paragraph (3), any difference in language between 22 Pa.C.S. § 3307 and the act of March 21, 1929 (P.L. 41, No.38) or the act of April 17, 1945 (P.L. 236, No.106) is intended to conform to the style of the Pennsylvania Consolidated Statutes and is not intended to change or affect the legislative intent, judicial construction or administration interpretation and implementation of the act of March 21, 1929 (P.L. 41, No.38) or the act of April 17, 1945 (P.L. 236, No.106).

(3) The following provision of the act of April 17, 1945 (P.L.236, No.106) is obsolete and excluded from the addition of 22 Pa.C.S. § 3307:

(i) Section 2, relating to effective date.

(4) A reference in any other act or regulation to the act of March 21, 1929 (P.L. 41, No.38) or the act of April 17, 1945 (P.L. 236, No.106) shall be deemed to be a reference to 22 Pa.C.S. § 3307.

Section 16. The addition of 22 Pa.C.S. § 3308 is a continuation of 74 Pa.C.S. § 5904 (relating to airport authorities).

The following apply:

(1) Except as otherwise provided in 22 Pa.C.S. § 3308, all activities initiated under 74 Pa.C.S. § 5904 shall continue and remain in full force and effect and may be completed under 22 Pa.C.S. § 3308. Resolutions, orders, regulations, rules and decisions which were made under 74 Pa.C.S. § 5904 and which are in effect on the effective date of this section shall remain in full force and effect until revoked, vacated or modified under 22 Pa.C.S. § 3308. Contracts, obligations and agreements entered into under 74 Pa.C.S. § 5904 are not affected or impaired by the repeal of 74 Pa.C.S. § 5904.

(2) Except as provided in paragraph (c) any difference in language between 22 Pa.C.S. § 3308 and 74 Pa.C.S. § 5904 is intended to conform to the style of the Pennsylvania Consolidated Statutes and is not intended to change or affect the legislative intent, judicial construction or administration interpretation and implementation of 74 Pa.C.S. § 5904.

(3) The following provisions of 74 Pa.C.S. Ch. 59 Subch. A (relating to Airport Operation and Zoning – General Provisions) are obsolete and excluded from the addition of 22 Pa.C.S. § 3308:

(i) Section 5901 (relating to Harrisburg International Airport).

(ii) Section 5902 (relating to other airports).

(iii) Section 5903 (relating to authority of department).

(4) A reference in any other act or regulation to 74 Pa.C.S. § 5904 shall be deemed to be a reference to 22 Pa.C.S. § 3308.

Section 17. The addition of 44 Pa.C.S. Ch. 21, Subch. A (relating to organization of the Pennsylvania State Police) is a continuation of §§ 205, 710, 711 and 712 of the act of April 9, 1929 (P.L. 177, No. 175), known as the Administrative Code of 1929.

The following apply:

(1) Except as otherwise provided in 44 Pa.C.S. Ch. 21, Subch. B, all activities initiated under §§ 205, 710, 711 and 712 of the Administrative Code of 1929 shall continue and remain in full force and effect and may be completed under 44 Pa.C.S. Ch. 21 Subch. A. Resolutions, orders, regulations, rules and decisions which were made under §§ 205, 710, 711 and 712 of the Administrative Code of 1929 and which are in effect on the effective date of this section shall remain in full force and effect until revoked, vacated or modified under 44 Pa.C.S. Ch. 21 Subch. A. Contracts, obligations and agreements entered into under §§ 205, 710, 711 and 712 of the Administrative Code of 1929 are not affected or impaired by the repeal of §§ 205, 710, 711 and 712 of the Administrative Code of 1929.

(2) Except as specified in paragraph (3) any difference in language between 44 Pa.C.S. Ch. 21, Subch. A and §§ 205, 710, 711 and 712 of the Administrative Code of 1929 is intended to conform to the style of the Pennsylvania Consolidated Statutes and is not intended to change or affect the legislative intent, judicial construction or administration interpretation and implementation of §§ 205, 710, 711 and 712 of the Administrative Code of 1929.

(3) The following provision of the Administrative Code of 1929 is obsolete and excluded from the addition of 44 Pa.C.S. Ch. 21 Subch. A:

(i) Section 713, referring to Residential State Trooper Program.

(4) A reference in any other act or regulation to the §§ 205, 710, 711 and 712 of the Administrative Code of 1929 shall be deemed to be a reference to 44 Pa.C.S. Ch. 21 Subch. A. Section 18. The addition of 44 Pa.C.S. Ch. 51 (relating to Commonwealth buildings and grounds) is a continuation of §§ 2402(b), 2416 and 2416.1 of the act of April 9, 1929 (P.L. 177, No. 175), known as the Administrative Code of 1929 and §§ 2001-A(a)(20) and 2019-A of the act of March 10, 1949, P.L. 30, No. 14, known as the Public School Code of 1949.

The following apply:

(1) Except as otherwise provided in 44 Pa.C.S. Ch. 51, all activities initiated under §§ 2402(b), 2416 and 2416.1 of the Administrative Code of 1929 and §§ 2001-A(a)(20) and 2019-A of the Public School Code of 1949 shall continue and remain in full force and effect and may be completed under 44 Pa.C.S. Ch. 51. Resolutions, orders, regulations, rules and decisions which were made under §§ 2402(b), 2416 and 2416.1 of the Administrative Code of 1929 and §§ 2001-A(a)(20) and 2019-A of the Public School Code of 1949 and which are in effect on the effective date of this section shall remain in full force and effect until revoked, vacated or modified under 44 Pa.C.S. Ch. 51. Contracts, obligations and agreements entered into under §§ 2402(b), 2416 and 2416.1 of the Administrative Code of 1929 and §§ 2001-A(a)(20) and 2019-A of the Public School Code of 1949 are not affected or impaired by the repeal of §§ 2402(b), 2416 and 2416.1 of the Administrative Code of 1929 and §§ 2001-A(a)(20) and 2019-A of the Public School Code of 1949.

(2) Any difference in language between 44 Pa.C.S. Ch. 51 and §§ 2402(b), 2416 and 2416.1 of the Administrative Code of 1929 and §§ 2001-A(a)(20) and 2019-A of the Public School Code of 1949 is intended to conform to the style of the Pennsylvania Consolidated Statutes

and is not intended to change or affect the legislative intent, judicial construction or administration interpretation and implementation of §§ 2402(b), 2416 and 2416.1 of the Administrative Code of 1929 and §§ 2001-A(a)(20) and 2019-A of the Public School Code of 1949.

(3) A reference in any other act or regulation to the §§ 2402(b), 2416 and 2416.1 of the Administrative Code of 1929 and §§ 2001-A(a)(20) and 2019-A of the Public School Code of 1949 shall be deemed to be a reference to 44 Pa.C.S. Ch. 51.

Section 19. The addition of 44 Pa.C.S. § 5106 is a continuation of the act of May 21, 1943, (P.L.469, No.210), referred to as the institutional police law.

The following apply:

(1) Except as otherwise provided in 44 Pa.C.S. § 5106, all activities initiated under the institutional police law shall continue and remain in full force and effect and may be completed under 44 Pa.C.S. § 5106. Resolutions, orders, regulations, rules and decisions which were made under the institutional police law and which are in effect on the effective date of this section shall remain in full force and effect until revoked, vacated or modified under 44 Pa.C.S. § 5106. Contracts, obligations and agreements entered into under the institutional police law are not affected or impaired by the repeal of the institutional police law.

(2) Except as specified in paragraph (3) any difference in language between 44 Pa.C.S. § 5106 and the institutional police law is intended to conform to the style of the Pennsylvania Consolidated Statutes and is not intended to change or affect the legislative intent, judicial construction or administration interpretation and implementation of the institutional police law.

(3) The following provisions of the institutional police law are obsolete and excluded from the addition of 44 Pa.C.S. § 5106:

(i) Section 3, repealer.

(ii) Section 4, effective date.

(4) A reference in any other act or regulation to the institutional police law shall be deemed to be a reference to 44 Pa.C.S. § 5106.

Section 20. The addition of 44 Pa.C.S. § 7403(b) is a continuation of the act of April 5, 1927 (P.L. 114, No. 78).

The following apply:

(1) Except as otherwise provided in 44 Pa.C.S. § 7403(b), all activities initiated under the act of April 5, 1927 (P.L.114, No.78) shall continue and remain in full force and effect and may be completed under 44 Pa.C.S. § 7403(b). Resolutions, orders, regulations, rules and decisions which were made under the act of April 5, 1927 (P.L.114, No.78) and which are in effect on the effective date of this section shall remain in full force and effect until revoked, vacated or modified under 44 Pa.C.S. § 7403(b). Contracts, obligations and agreements entered into under the act of April 5, 1927 (P.L.114, No.78) are not affected or impaired by the repeal of the act of April 5, 1927 (P.L.114, No.78).

(2) Any difference in language between 44 Pa.C.S. § 7403(b) and the act of April 5, 1927 (P.L.114, No.78) is intended to conform to the style of the Pennsylvania Consolidated Statutes and is not intended to change or affect the legislative intent, judicial construction or administration interpretation and implementation of the act of April 5, 1927 (P.L.114, No.78).

(3) A reference in any other act or regulation to the the act of April 5, 1927 (P.L.114, No.78) shall be deemed to be a reference to 44 Pa.C.S. § 7403(b).

Section 21. The addition of 44 Pa.C.S. § 7403(d) is a continuation of the act of May 24, 1887 (P.L.185, No.126) and the act of Act of May 23, 1923 (P.L.349, No.221).

The following apply:

(1) Except as otherwise provided in 44 Pa.C.S. § 7403(d), all activities initiated under the act of May 24, 1887 (P.L.185, No.126) and the act of Act of May 23, 1923 (P.L.349, No.221) shall continue and remain in full force and effect and may be completed under 44 Pa.C.S. § 7403(d). Resolutions, orders, regulations, rules and decisions which were made under the act of May 24, 1887 (P.L.185, No.126) and the act of Act of May 23, 1923 (P.L.349, No.221) and which are in effect on the effective date of this section shall remain in full force and effect until revoked, vacated or modified under 44 Pa.C.S. § 7403(d). Contracts, obligations and agreements entered into under the act of May 24, 1887 (P.L.185, No.126) and the act of Act of May 23, 1923 (P.L.349, No.221) are not affected or impaired by the repeal of the act of May 24, 1887 (P.L.185, No.126) or the act of Act of May 23, 1923 (P.L.349, No.221).

(2) Any difference in language between 44 Pa.C.S. §7403(d) and the act of May 24, 1887 (P.L.185, No.126) or the act of Act of May 23, 1923 (P.L.349, No.221) is intended to conform to the style of the Pennsylvania Consolidated Statutes and is not intended to change or affect the legislative intent, judicial construction or administration interpretation and implementation of the act of May 24, 1887 (P.L.185, No.126) or the act of Act of May 23, 1923 (P.L.349, No.221).

(3) A reference in any other act or regulation to the act of May 24, 1887 (P.L.185, No.126) or the act of Act of May 23, 1923 (P.L.349, No.221) shall be deemed to be a reference to 44 Pa.C.S. § 7403(d).

Section 22. The addition of 44 Pa.C.S. § 7403(e) is a continuation of the act of April 4, 1929 (P.L.163, No.158).

The following apply:

(1) Except as otherwise provided in 44 Pa.C.S. § 7403(e), all activities initiated under the act of April 4, 1929 (P.L.163, No.158) shall continue and remain in full force and effect and may be completed under 44 Pa.C.S. § 7403(e). Resolutions, orders, regulations, rules and decisions which were made under the act of April 4, 1929 (P.L.163, No.158) and which are in effect on the effective date of this section shall remain in full force and effect until revoked, vacated or modified under 44 Pa.C.S. § 7403(e). Contracts, obligations and agreements entered into under the act of April 4, 1929 (P.L.163, No.158) are not affected or impaired by the repeal of the act of April 4, 1929 (P.L.163, No.158).

(2) Except as provided in paragraph (3), any difference in language between 44 Pa.C.S. § 7403(e) and the act of April 4, 1929 (P.L.163, No.158) is intended to conform to the style of the Pennsylvania Consolidated Statutes and is not intended to change or affect the legislative intent, judicial construction or administration interpretation and implementation of the act April 4, 1929 (P.L.163, No.158).

(3) The following provisions of the act April 4, 1929 (P.L.163, No.158) are obsolete and excluded from the addition of 44 Pa.C.S. § 7403(e):

(i) Section 2, relating to salary of deputy sheriff.

(4) A reference in any other act or regulation to the act of April 4, 1929 (P.L.163, No.158) shall be deemed to be a reference to 44 Pa.C.S. § 7403(e).

Section 23. The addition of 44 Pa.C.S. § 7403(f) through (k) is a continuation of the act of Act of Jun. 4, 1937 (P.L.1595, No.324), referred to as the deputy sheriff qualification and appointment law.

The following apply:

(1) Except as otherwise provided in 44 Pa.C.S. §§ 7403(f) through (k), all activities initiated under the deputy sheriff qualification and appointment law shall continue and remain in full force and effect and may be completed under 44 Pa.C.S. §§ 7403(f) through (k). Resolutions, orders, regulations, rules and decisions which were made under the deputy sheriff qualification and appointment law and which are in effect on the effective date of this section shall remain in full force and effect until revoked, vacated or modified under 44 Pa.C.S. §§ 7403(f) through (k). Contracts, obligations and agreements entered into under the deputy sheriff qualification and appointment are not affected or impaired by the repeal of the deputy sheriff qualification and appointment law.

(2) Except as specified in paragraph (3) any difference in language between 44 Pa.C.S. §§ 7403(f) through (k) and the deputy sheriff qualification and appointment law is intended to conform to the style of the Pennsylvania Consolidated Statutes and is not intended to change or affect the legislative intent, judicial construction or administration interpretation and implementation of the deputy sheriff qualification and appointment law.

(3) The following provisions of the deputy sheriff qualification and appointment law are obsolete and excluded from the addition of 44 Pa.C.S. §§ 7403(f) through (k):

(i) Section 8, severability clause.

(4) A reference in any other act or regulation to the deputy sheriff qualification and appointment law shall be deemed to be a reference to 44 Pa.C.S. §§ 7403(f) through (k).

Section 24. Repeals are as follows:

(1) The General Assembly finds that the repeals under paragraph (2) are necessary to implement this act.

(2) The following acts are repealed:

(i) The act of April 26, 1870 (P.L.1269, No.1166), entitled “an act to authorize the private patrol and watchmen to be commissioned by the mayor of Philadelphia to perform police duty within prescribed limits in said city.”

(ii) The act of April 9, 1873 (P.L.67, No.45), entitled “an act for the further protection of cemeteries in the state of Pennsylvania.”

(iii) The act of June 8, 1881 (P.L.67, No.72), entitled “an act extending to the superintendent and watchmen of public grounds and buildings power to make arrests, and to preserve the peace upon and within the same.”

(iv) The act of April 26, 1883 (P.L.14, No.13), entitled “an act for the protection of agricultural and horticultural societies.”

(v) The act of May 24, 1887 (P.L.185, No.126), entitled “an act authorizing the sheriffs of the several counties of this Commonwealth to appoint, by deed, chief deputies, with power to act as sheriff in case of and during the temporary disability of the sheriff to act in person, and fixing the salaries of such chief deputies, in counties containing more than five hundred thousand inhabitants.”

(vi) The act of June 16, 1895 (P.L.333, No.248), entitled “an act to authorize occupants of real estate in cities and boroughs of the Commonwealth to employ night watchmen, with the approval of the court of quarter sessions of the proper county or of the Director of the Department of Public Safety in any city having such a department, and conferring upon the

night watchmen thus employed, all rights, privileges and powers of constables and policemen duly elected or appointed in such cities or boroughs.”

(vii) The act of May 23, 1923 (P.L.349, No.221), entitled “an act empowering any chief deputy appointed by deed of any sheriff in any county of this Commonwealth to perform any duty incumbent upon such sheriff, until a written revocation of such appointment be recorded, with like effect as if such official act had been done by the sheriff in person, regardless of the ability or temporary disability of such sheriff to act, while such sheriff continues in office.”

(viii) The act of Apr. 5, 1927 (P.L.114, No.78), entitled “an act to authorize the incoming sheriff in any county to complete the official acts of his predecessor.”

(ix) The act of May 13, 1927 (P.L.994, No.483), entitled “an act fixing the salary to be paid by each county of the first class to its chief deputy sheriff.”

(x) The act of March 21, 1929 (P.L.41, No.38), entitled “a supplement to the act, approved the eighth day of May, one thousand nine hundred and nineteen (Pamphlet Laws, one hundred forty-eight), entitled ‘An act providing for the joint acquisition and maintenance by the Commonwealth of Pennsylvania and the State of New Jersey of certain toll bridges over the Delaware River;’ authorizing the appointment of policemen and defining their powers and duties; and authorizing the adoption of rules and regulations for the prevention of disorder, the preservation of the public safety, and the regulation of traffic; and providing penalties.”

(xi) The act of April 4, 1929 (P.L.163, No.158), entitled “an act providing for real estate deputy sheriffs in counties of the first, second, and third classes; and fixing their salaries payable by said counties; and repealing section two of an act, approved the twenty-fourth day of May, one thousand eight hundred and eighty-seven (Pamphlet Laws, one hundred eighty-five), entitled "An act authorizing the sheriffs of the several counties of this Commonwealth

to appoint by deed chief deputies with power to act as sheriff in case of and during the temporary disability of the sheriff to act in person and fixing the salaries of such chief deputies in counties containing more than five hundred thousand inhabitants," and other acts general, special or local so far as inconsistent herewith.”

(xii) Sections §§ 205, 710, 711, 712, 713, 2402(b), 2416 and 2416.1 of the act of April 9, 1929 (P.L.177, No.175), known as the Administrative Code of 1929.

(xiii) Act of Jun. 23, 1931 (P.L.929, No.312), entitled “an act fixing the qualifications of deputy sheriffs in this Commonwealth.”

(xiv) Act of Jun. 4, 1937 (P.L.1595, No.324), entitled “an act relating to peace officers; providing for the qualifications and appointments of deputy sheriffs; regulating the manner of their selection and compensation; regulating the source of compensation for other peace officers; declaring void certain contracts inconsistent with the provisions hereof; providing penalties; and repealing inconsistent acts.”

(xv) The act of May 21, 1943 (P.L.469, No.210), entitled “an act providing for commissioning as police officers certain employes of institutions maintained in whole or in part by the Commonwealth; conferring upon them the powers of constables in certain cases; and imposing duties on wardens and keepers of jails, police stations and lock-ups.”

(xvi) The act of April 17, 1945 (P.L.236, No.106), entitled “an act concerning the powers and duties of policemen appointed by the Delaware River Joint Toll Bridge Commission.”

(xvii) Sections §§ 2001-A(a)(20) and 2019-A of the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949.

(xviii) The act of April 12, 1957 (P.L.61, No.34), entitled “an act authorizing and empowering the Delaware River Port Authority, a body corporate and politic, functioning

under the legislation enacted by the Commonwealth of Pennsylvania and the State of New Jersey, and the express consent of the Congress of the United States, to appoint policemen; make rules and regulations for the prevention of disorder, the preservation of safety, and the conservation of traffic on such bridges and in such tunnels and approaches thereto as the commission does or may hereafter operate; to prevent the evasion of the payment of tolls; and providing a penalty for the violation of any such rules or regulations or for the evasion or the attempt to evade the payment of tolls.”

(xix) The act of October 10, 1974 (P.L.705, No.235), known as the Lethal Weapons Training Act.

(xx) 74 Pa.C.S. § 5904.

Section 25. This act shall take effect in 60 days.



## SOURCE AND DISPOSITION TABLES

<b>SOURCE TABLE</b>		
<b>22 Pa.C.S. Section</b>	<b>Original Statute</b>	<b>Purdon's Citation</b>
111	§ 1 of the act of October 10, 1974 (P.L. 705, No. 235), known as the Lethal Weapons Training Act (LWTA)	22 P.S. § 41
112	§ 2 LWTA	22 P.S. § 42
113	§ 3 LWTA	22 P.S. § 43
114	§ 4 LWTA	22 P.S. § 44
115	§ 5 LWTA	22 P.S. § 45
116	§ 6 LWTA	22 P.S. § 46
117	§ 7 LWTA	22 P.S. § 47
118	§ 8 LWTA	22 P.S. § 48
119(a)	§ 8.1(a) LWTA	22 P.S. § 48.1(a)
119 (b)	§ 10.1 LWTA	22 P.S. § 50.1
119(c)	§ 8.1(b) LWTA	22 P.S. § 48.1(b)
120(a)	§ 10 LWTA	22 P.S. § 50
120(b)	§ 9(a) LWTA	22 P.S. § 49(a)
120(c)	§ 9(b) LWTA	22 P.S. § 49(b)
501(f)	New	--
501(g)	New	--
3306(a)-(g)	§ 1 of the act of April 12, 1957 (P.L. 61, No. 34) (1957-34)	36 P.S. § 3504.1
3306(h)	§ 1.1 of 1957-34	36 P.S. § 3504.1a
3306(i)	§ 2 of 1957-34	36 P.S. § 3504.2
3307(a) and (b)	§ 1 of the act of March 21, 1929 (P.L. 41, No. 38) (1929-38)	36 P.S. § 3301
3307(c)(1)	§ 1 of 1929-38 and § 1 of the act of April 17, 1945 (P.L. 236, No. 106) (1945-106)	36 P.S. §§ 3301 and 3305

<b>SOURCE TABLE</b>		
<b>22 Pa.C.S. Section</b>	<b>Original Statute</b>	<b>Purdon's Citation</b>
3307(c)(2)	§ 1 of 1945-106	36 P.S. § 3305
3307(d)	§ 2 of 1929-38 and § 1 of 1945-106	36 P.S. §§ 3302 and 3305
3307(e)	§ 3 of 1929-38	36 P.S. § 3303
3307(f)	§ 4 of 1929-38	36 P.S. § 3304
3307(g)	New	--
3308	74 Pa.C.S. § 5904	--

<b>SOURCE TABLE</b>		
<b>44 Pa.C.S. Section</b>	<b>Original Statute</b>	<b>Purdon's Citation</b>
2101(a) and (b)	§ 205(a) and (b) of the act of April 9, 1929 (P.L. 177, No. 175), known as the Administrative Code of 1929 (AC1929)	71 P.S. § 65(a) and (b)
2101 (c)	§§ 205(f) and 711(b)(4) of AC1929	71 P.S. §§ 65(f) and 251(b)(4)
2101(d) and (e)	§ 205(c)	71 P.S. § 65 (c)
2101 (f)	New	--
2102 Introduction, paragraphs (1) and (2)	§ 711(a) first and second sentences, AC1929	71 P.S. § 251(a)
2102 paragraph (3)	§ 711(a) fourth sentence, AC1929	71 P.S. § 251(a)
2103 (a)	§ 711(a) third sentence, AC 1929	71 P.S. § 251(a)
2103 (b)	§ 711(a.1) of AC1929	71 P.S. § 251(a.1)
2104 (a)(1)	§ 710(a) of AC1929	71 P.S. § 250(a)
2104 (a)(2)	§ 710(b) of AC1929	71 P.S. § 250(b)
2104(a)(3)	§ 710(c) of AC1929	71 P.S. § 250(c)
2104(a)(4)	§ 710(d) of AC1929	71 P.S. § 250(d)
2104(a)(5)	§ 710(e) of AC1929	71 P.S. § 250(e)
2104(a)(6)	§ 710(f) of AC1929	71 P.S. § 250(f)
2104(a)(7)	§ 710(g) of AC1929	71 P.S. § 250(g)
2104(a)(8)	§ 710(h) of AC1929	71 P.S. § 250(h)
2104(a)(9)	§ 710(i) of AC1929	71 P.S. § 250(i)
2104(b)	§ 710 (b), (c) and (g) of AC1929	71 P.S. § 710 (b), (c), and (d)
2105(1)	§ 712(a) of AC1929	71 P.S. § 252(a)

<b>SOURCE TABLE</b>		
<b>44 Pa.C.S. Section</b>	<b>Original Statute</b>	<b>Purdon's Citation</b>
2105(2)	§ 712(b) of AC1929	71 P.S. § 252(b)
2106	§ 205(d) of AC1929	71 P.S. § 65(d)
2107(a)	§§ 205(e) and 711(b)(4) of AC1929	71 P.S. § 65(e) and § 251(b)(4)
2107(b) and (c)	§711(b)(1) of AC1929	71 P.S. § 251(b)(1)
2107(d), (e), (f) and (g)	§ 711(b)(2) of AC1929	71 P.S. § 251(b)(2)
2107(h)	§ 711(b)(3) of AC1929	71 P.S. § 251(b)(3)
5101	New	--
5102(a)	§§ 2402(b) and 2416(a) of AC1929	71 P.S. §§ 632(a) and 646(a)
5102(b) and (c)	§ 2402(b) of AC1929	71 P.S. § 632(a)
5103(a)	§ 2416(a) of AC1929	71 P.S. § 646(a)
5103(b)	§ 2416.1(d) of AC 1929 and § 2001-A(a)(20) of the Act of March 10, 1949 (P.L. 30, No. 14), known as the Public School Code of 1949 (PSC49)	71 P.S. § 646.1(b) and 24 P.S. § 20-2001-A(a)(20)
5104(1)	§§ 2416(a) and 2416.1(a)(1) of AC 1929 and § 2019-A(a)(1) of PSC49	71 P.S. §§ 646(a) and 646.1(a)(1) and 24 P.S. § 20-2019-A(a)(1)
5104(2)	§§ 2416(b) and 2416.1(a)(2) of AC1929 and § 2019-A(a)(2) of PSC49	71 P.S. §§ 646(b) and 646.1(a)(2) and 24 P.S. § 20-2019-A(a)(2)
5104(3)	§§ 2416(c) and 2416.1(a)(3) of AC1929 and § 2019-A(a)(3) of PSC49	71 P.S. §§ 646(c) and 646.1(a)(3) and 24 P.S. § 20-2019-A(a)(3)
5104(4)	§§ 2416(d) and 2416.1(a)(4) of AC1929 and § 2019-A(a)(4) of PSC49	71 P.S. §§ 646(d) and 646.1(a)(4) and 24 P.S. § 20-2019-A(a)(4)
5104(5)	§§ 2416(e) and 2416.1(a)(5) of AC1929 and § 2019-A(a)(5) of PSC49	71 P.S. §§ 646(e) and 646.1(a)(5) and 24 P.S. § 20-2019-A(a)(5)
5104(6)	§§ 2416(g) and 2416.1(a)(7) of AC1929 and § 2019-A(a)(7) of PSC49	71 P.S. §§ 646(g) and 646.1(a)(7) and 24 P.S. § 20-2019-A(a)(7)

<b>SOURCE TABLE</b>		
<b>44 Pa.C.S. Section</b>	<b>Original Statute</b>	<b>Purdon's Citation</b>
5104(7)	§§ 2416(h) and 2416.1(a)(8) of AC1929 and § 2019-A(a)(8) of PSC49	71 P.S. §§ 646(h) and 646.1(a)(8) and 24 P.S. § 20-2019-A(a)(8)
5105(a)	New	--
5105(b)	§ 2416.1(a)(6) of AC1929 and § 2019-A(a)(6) of PSC49	71 P.S. § 646.1(a)(6) and 24 P.S. § 20-2019-A(a)(6)
5105(c)	§ 2416.1(b) of AC1929 and § 2019-A(b) of PSC49	71 P.S. § 646.1(b) and 24 P.S. § 20-2019-A(b)
5105(d)	§ 2416.1(c) of AC1929 and § 2019-A(c) of PSC49	71 P.S. § 646.1(c) and 24 P.S. § 20-2019-A(c)
5105(e)	§ 2019-A(d) of PSC49	24 P.S. § 20-2019-A(d)
5106(a)	§ 1 act of May 21, 1943 (P.L. 469, No. 210) (1943-210)	71 P.S. §§ 1791
5106(b)	§§ 1 and 1.1 of 1943-210	71 P.S. § 1791 and 1791.1
5106(c)	§ 2 of 1943-210	71 P.S. § 1792
5106(d)	New	--
5106(e) definition of "institution"	New	--
5106(e) definition of "state correctional institution"	61 Pa.C.S. § 102	--
5106(e) definition of "state institution", paragraph (1)	§ 1 of 1943-210; § 401 of AC1929; § 8 of the act of May 25, 1921 (P.L. 1144, No. 425); and § 301 of the act of June 13, 1967 (P.L. 31, No. 21), known as the Human Services Code	71 P.S. § 1791; 71 P.S. § 111; 71 P.S. § 1468; and 62 P.S. § 301
5106(e) definition of "state institution", paragraph (2)	§ 1.1 of 1943-210	71 P.S. § 1791.1
7401	New	--
7402	New	--
7403(a)	New	--
7403(b)	§ 1 of the act of April 5, 1927 (P.L. 114, No. 78)	16 P.S. § 7522
7403(c)	New	--

<b>SOURCE TABLE</b>		
<b>44 Pa.C.S. Section</b>	<b>Original Statute</b>	<b>Purdon's Citation</b>
7403(d)	§ 1 of the act of May 24, 1887 (P.L. 185, No. 126) and § 1 of the act of May 23, 1923 (P.L. 349, No. 221)	16 P.S. §§ 7519 and 7520
7403(e)	§ 1 of the act of April 4, 1929 (P.L. 163, No. 158)	16 P.S. § 7517
7403(f)	§ 1 of the act of June 4, 1937 (P.L. 1595, No. 324) (1937-324)	16 P.S. § 7510
7403(g), first sentence	§ 2 of 1937-324	16 P.S. § 7511
7403(g), second sentence	§ 3 of 1937-324	16 P.S. § 7512
7403(h)	§ 4 of 1937-324	16 P.S. § 7513
7403(i)	§ 5 of 1937-324	16 P.S. § 7514
7403(j)	§ 6 of 1937-324	16 P.S. § 7515
7403(k)	§ 7 of 1937-324	16 P.S. § 7516

<b>DISPOSITION TABLE</b>		
<b>Original Statute</b>	<b>Purdon's Citation</b>	<b>Pa.C.S. Section</b>
Act of April 26, 1870 (P.L. 1269, No. 1166)	53 P.S. § 17096	Obsolete - supplied by 22 Pa.C.S. § 501
Act of April 9, 1873 (P.L. 67, No. 45)	9 P.S. § 7	Obsolete - supplied by 22 Pa.C.S. § 501
Act of June 8, 1881 (P.L. 67, No. 72)	71 P.S. § 1564.1	Repealed as superseded
Act of April 26, 1883 (P.L. 14, No. 13)	3 P.S. § 1	Obsolete - supplied by 22 Pa.C.S. § 501
Act of May 24, 1887 (P.L. 185, No. 126) § 1	16 P.S. § 7519	44 Pa.C.S. § 7403(d)
Act of June 16, 1895 (P.L. 333, No. 248)	53 P.S. § 3704	Obsolete - supplied by 22 Pa.C.S. § 501
Act of May 23, 1923 (P.L. 349, No. 221) § 1	16 P.S. § 7520	44 Pa.C.S. § 7403(d)
Act of April 5, 1927 (P.L. 114, No. 68) § 1	16 P.S. § 7522	44 Pa.C.S. § 7403(b)
Act of May 13, 1927 (P.L. 994, No. 483)	16 P.S. § 7521	Repealed as superseded
Act of March 21, 1929 (P.L. 41, No. 38) (1929-38) § 1	36 P.S. § 3301	22 Pa.C.S. § 3307(a), (b) and (c)(1)
1929-38 § 2	36 P.S. § 3302	22 Pa.C.S. § 3307(d)
1929-38 § 3	36 P.S. § 3303	22 Pa.C.S. § 3307(e)
1929-38 § 4	36 P.S. § 3304	22 Pa.C.S. § 3307(f)
Act of April 4, 1929 (P.L. 163, No. 158) § 1	16 P.S. § 7517	44 Pa.C.S. § 7403(e)
Act of April 9, 1929 (P.L. 177, No. 175, known as the Administrative Code of 1929 (AC1929) § 205(a)	71 P.S. § 65(a)	44 Pa.C.S. § 2101(a)
AC1929 § 205(b)	71 P.S. § 65(b)	44 Pa.C.S. § 2101(b)
AC1929 § 205(c)	71 P.S. § 65(c)	44 Pa.C.S. § 2101(d) and (e)
AC1929 § 205(d)	71 P.S. § 65(d)	44 Pa.C.S. § 2106
AC1929 § 205(e)	71 P.S. § 65(e)	44 Pa.C.S. § 2107(a)
AC1929 § 205(f)	71 P.S. § 65(f)	44 Pa.C.S. § 2101(c)
AC1929 § 710(a)	71 P.S. § 250(a)	44 Pa.C.S. § 2104(a)(1)
AC1929 § 710(b)	71 P.S. § 250(b)	44 Pa.C.S. §§ 2104(a)(2) and (b)
AC1929 § 710(c)	71 P.S. § 250(c)	44 Pa.C.S. §§ 2104(a)(3) and (b)
AC1929 § 710(d)	71 P.S. § 250(d)	44 Pa.C.S. § 2104(a)(4)

<b>DISPOSITION TABLE</b>		
<b>Original Statute</b>	<b>Purdon's Citation</b>	<b>Pa.C.S. Section</b>
AC1929 § 710(e)	71 P.S. § 250(e)	44 Pa.C.S. § 2104(a)(5)
AC1929 § 710(f)	71 P.S. § 250(f)	44 Pa.C.S. § 2104(a)(6)
AC1929 § 710(g)	71 P.S. § 250(g)	44 Pa.C.S. §§ 2104(a)(7) and (b)
AC1929 § 710(h)	71 P.S. § 250(h)	44 Pa.C.S. § 2104(a)(8)
AC1929 § 710(i)	71 P.S. § 250(i)	44 Pa.C.S. § 2104(a)(9)
AC1929 § 711(a) first and second sentences	71 P.S. § 251(a) first and second sentences	44 Pa.C.S. § 2102, introduction and paragraphs (1) and (2)
AC 1929 § 711(a) third sentence	71 P.S. § 251(a) third sentence	44 Pa.C.S. § 2103(a)
AC1929 § 711(a) fourth sentence	71 P.S. § 251(a) fourth sentence	44 Pa.C.S. § 2102 paragraph (3)
AC1929 § 711(a.1)	71 P.S. § 251(a.1)	44 Pa.C.S. § 2103(b)
AC1929 § 711(b)(1)	71 P.S. § 251(b)(1)	44 Pa.C.S. § 2107(b) and (c)
AC1929 § 711(b)(2)	71 P.S. § 251(b)(2)	44 Pa.C.S. § 2107(d), (e), (f) and (g)
AC1929 § 711(b)(3)	71 P.S. § 251(b)(3)	44 Pa.C.S. § 2107(h)
AC1929 § 711(b)(4)	71 P.S. § 251(b)(4)	44 Pa.C.S. §§ 2101(c) and 2107(a)
AC1929 § 712(a)	71 P.S. § 252(a)	44 Pa.C.S. § 2105(1)
AC1929 § 712(b)	71 P.S. § 252(b)	44 Pa.C.S. § 2105(2)
AC1929 § 713	71 P.S. § 253	Repealed as obsolete
AC1929 § 2402(b)	71 P.S. § 632(b)	44 Pa.C.S. § 5102
AC1929 § 2416(a)	71 P.S. § 646(a)	44 Pa.C.S. §§ 5102(a), 5103(a) and 5104(1)
AC1929 § 2416(b)	71 P.S. § 646(b)	44 Pa.C.S. § 5104(2)
AC1929 § 2416(c)	71 P.S. § 646(c)	44 Pa.C.S. § 5104(3)
AC1929 § 2416(d)	71 P.S. § 646(d)	44 Pa.C.S. § 5104(4)
AC1929 § 2416(e)	71 P.S. § 646(e)	44 Pa.C.S. § 5104(5)
AC1929 § 2416(g)	71 P.S. § 646(g)	44 Pa.C.S. § 5104(6)
AC1929 § 2416(h)	71 P.S. § 646(h)	44 Pa.C.S. § 5104(7)
AC 1929 § 2416 last paragraph	71 P.S. § 646 last paragraph	Repealed as superseded
AC1929 § 2416.1(a)(1)	71 P.S. § 646.1(a)(1)	44 Pa.C.S. § 5104(1)
AC1929 § 2416.1(a)(2)	71 P.S. § 646.1(a)(2)	44 Pa.C.S. § 5104(2)
AC1929 § 2416.1(a)(3)	71 P.S. § 646.1(a)(3)	44 Pa.C.S. § 5104(3)
AC1929 § 2416.1(a)(4)	71 P.S. § 646.1(a)(4)	44 Pa.C.S. § 5104(4)
AC1929 § 2416.1(a)(5)	71 P.S. § 646.1(a)(5)	44 Pa.C.S. § 5104(5)
AC1929 § 2416.1(a)(6)	71 P.S. § 646.1(a)(6)	44 Pa.C.S. § 5105(b)
AC1929 § 2416.1(a)(7)	71 P.S. § 646.1(a)(7)	44 Pa.C.S. § 5104(6)
AC1929 § 2416.1(a)(8)	71 P.S. § 646.1(a)(8)	44 Pa.C.S. § 5104(7)

<b>DISPOSITION TABLE</b>		
<b>Original Statute</b>	<b>Purdon's Citation</b>	<b>Pa.C.S. Section</b>
AC1929 § 2416.1(b)	71 P.S. § 646.1(b)	44 Pa.C.S. § 5105(c)
AC1929 § 2416.1(c)	71 P.S. § 646.1(c)	44 Pa.C.S. § 5105(d)
AC1929 § 2416.1(d)	71 P.S. § 646.1(d)	44 Pa.C.S. § 5103(b)
Act of June 23, 1931 (P.L. 929, No. 312)	16 P.S. § 7509	Repealed as superseded
Act of June 4, 1937 (P.L. 1595, No. 324) (1937 act) § 1	16 P.S. § 7510	44 Pa.C.S. § 7403(f)
1937 act § 2	16 P.S. § 7511	44 Pa.C.S. § 7403(g), first sentence
1937 act § 3	16 P.S. § 7512	44 Pa.C.S. § 7403(g), second sentence
1937 act § 4	16 P.S. § 7513	44 Pa.C.S. § 7403(h)
1937 act § 5	16 P.S. § 7514	44 Pa.C.S. § 7403(i)
1937 act § 6	16 P.S. § 7515	44 Pa.C.S. § 7403(j)
1937 act § 7	16 P.S. § 7516	44 Pa.C.S. § 7403(k)
1937 act § 8	--	Severability clause - obsolete
Act of May 21, 1943 (P.L. 469, No. 210) (1943 act) § 1	71 P.S. § 1791	44 Pa.C.S. § 5106(a), (b) and (e)
1943 act § 1.1	71 P.S. § 1791.1	44 Pa.C.S. § 5106(b); 5106(e)
1943 act § 2	71 P.S. § 1792	44 Pa.C.S. § 5106(c)
1943 act § 3	--	Repealer - obsolete
1943 act § 4	--	Effective date - obsolete
Act of April 17, 1945 (P.L. 236, No. 106) § 1	36 P.S. § 3305	22 Pa.C.S. § 3307(c) and (d)
Act of March 10, 1949 (P.L. 30, No. 14) known as the Public School Code of 1949 (PSC49) § 2001-A(a)(20)	24 P.S. § 20-2001- A(a)(20)	44 Pa.C.S. § 5103(b)
PSC49 § 2019-A(a)(1)	24 P.S. § 20-2019- A(a)(1)	44 Pa.C.S. § 5104(1)
PSC49 § 2019-A(a)(2)	24 P.S. § 20-2019- A(a)(2)	44 Pa.C.S. § 5104(2)
PSC49 § 2019-A(a)(3)	24 P.S. § 20-2019- A(a)(3)	44 Pa.C.S. § 5104(3)
PSC49 § 2019-A(a)(4)	24 P.S. § 20-2019- A(a)(4)	44 Pa.C.S. § 5104(4)
PSC49 § 2019-A(a)(5)	24 P.S. § 20-2019- A(a)(5)	44 Pa.C.S. § 5104(5)
PSC49 § 2019-A(a)(6)	24 P.S. § 20-2019- A(a)(6)	44 Pa.C.S. § 5105(b)

<b>DISPOSITION TABLE</b>		
<b>Original Statute</b>	<b>Purdon's Citation</b>	<b>Pa.C.S. Section</b>
PSC49 § 2019-A(a)(7)	24 P.S. § 20-2019-A(a)(7)	44 Pa.C.S. § 5104(6)
PSC49 § 2019-A(a)(8)	24 P.S. § 20-2019-A(a)(8)	44 Pa.C.S. § 5104(7)
PSC49 § 2019-A(b)	24 P.S. § 20-2019-A(b)	44 Pa.C.S. § 5105(c)
PSC49 § 2019-A(c)	24 P.S. § 20-2019-A(c)	44 Pa.C.S. § 5105(d)
PSC49 § 2019-A(d)	24 P.S. § 20-2019-A(d)	44 Pa.C.S. § 5105(e)
Act of April 12, 1957 (P.L. 61, No. 34) (1957 act) § 1	36 P.S. § 3504.1	22 Pa.C.S. § 3306(a)-(g)
1957 act § 1.1	36 P.S. § 3504.1a	22 Pa.C.S. § 3306(h)
1957 act § 2	36 P.S. § 3504.2	22 Pa.C.S. § 3306(i)
Act of October 10, 1974 (P.L. 705, No. 235) known as the Lethal Weapons Training Act (LWTA) §1	22 P.S. § 41	22 Pa.C.S. § 111
LWTA § 2	22 P.S. § 42	22 Pa.C.S. § 112
LWTA § 3	22 P.S. § 43	22 Pa.C.S. § 113
LWTA § 4	22 P.S. § 44	22 Pa.C.S. § 114
LWTA § 5	22 P.S. § 45	22 Pa.C.S. § 115
LWTA § 6	22 P.S. § 46	22 Pa.C.S. § 116
LWTA § 7	22 P.S. § 47	22 Pa.C.S. § 117
LWTA § 8	22 P.S. § 48	22 Pa.C.S. § 118
LWTA § 8.1(a)	22 P.S. § 48.1(a)	22 Pa.C.S. § 119(a)
LWTA § 8.1(b)	22 P.S. § 48.1(b)	22 Pa.C.S. § 119(c)
LWTA § 9(a)	22 P.S. § 49(a)	22 Pa.C.S. § 120(b)
LWTA § 9(b)	22 P.S. § 49(b)	22 Pa.C.S. § 120(c)
LWTA § 10	22 P.S. § 50	22 Pa.C.S. § 120(a)
LWTA § 10.1	22 P.S. § 50.1	22 Pa.C.S. § 119(b)
74 Pa.C.S. § 5904	--	22 Pa.C.S. § 3308



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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE RESOLUTION

No. 620 Session of  
2019

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INTRODUCED BY JOZWIAK, JAMES, KAUFFMAN, DeLUCA, ZABEL AND  
GILLEN, NOVEMBER 22, 2019

---

REFERRED TO COMMITTEE ON JUDICIARY, NOVEMBER 22, 2019

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A RESOLUTION

1 Directing the Joint State Government Commission to conduct a  
2 study regarding identifying and evaluating all categories of  
3 individuals in this Commonwealth authorized to exercise  
4 arrest or other police powers.

5 WHEREAS, The safety of the public in this Commonwealth is one  
6 of paramount importance, and to that end the role of  
7 professional, efficient and well-trained police is essential;  
8 and

9 WHEREAS, The Pennsylvania State Police, the Office of  
10 Attorney General, municipal police, sheriffs and other  
11 traditional law enforcement agencies honorably labor to fulfill  
12 this function; and

13 WHEREAS, Throughout the history of this Commonwealth, these  
14 traditional law enforcement agencies have been supplemented by  
15 other individuals authorized to exercise arrest or other police  
16 powers; and

17 WHEREAS, The range of categories of other individuals  
18 authorized to exercise arrest and other police powers is broad,  
19 including public servants, such as wildlife conservation

1 officers and constables, and private individuals authorized with  
2 arrest or other police powers, including humane society police  
3 officers and transportation agency police; and

4 WHEREAS, The categories of individuals authorized to exercise  
5 arrest or other police powers in current law include forest  
6 rangers, fire wardens, cemetery watchmen and horticultural  
7 exhibit police, among others; and

8 WHEREAS, The laws establishing these nontraditional  
9 categories of individuals authorized to exercise arrest or other  
10 police powers may be obsolete, benefit from consolidation with  
11 traditional law enforcement agencies or require updated training  
12 requirements; and

13 WHEREAS, Policymakers in this Commonwealth would benefit from  
14 a complete accounting of all those individuals presently  
15 authorized to exercise arrest or other police powers in this  
16 Commonwealth, as well as a description of the scope of those  
17 powers and the training requirements associated with each;  
18 therefore be it

19 RESOLVED, That the House of Representatives direct the Joint  
20 State Government Commission to conduct a study regarding  
21 identifying and evaluating all categories of individuals in this  
22 Commonwealth authorized to exercise arrest or other police  
23 powers; and be it further

24 RESOLVED, That for each category identified, the study shall  
25 determine:

26 (1) the legal authority, including statutory, regulatory  
27 or common law, authorizing the exercise of arrest or other  
28 police powers;

29 (2) the appointing authority, if any;

30 (3) the qualifications for hiring or appointment, as

1 appropriate;

2 (4) the in-service training requirements;

3 (5) the scope of jurisdiction and arrest or other police  
4 powers authorized;

5 (6) whether the carrying and use of firearms or other  
6 deadly force is authorized; and

7 (7) the qualifications and training required relating to  
8 the carrying and use of firearms or other deadly force;

9 and be it further

10 RESOLVED, That the study shall determine, to the extent  
11 possible, the number of individuals serving within each category  
12 during the last five years for which data is available; and be  
13 it further

14 RESOLVED, That the study shall evaluate and make  
15 recommendations regarding whether any category identified has  
16 become obsolete or may be consolidated with one or more other  
17 categories to achieve efficiencies and enhance public safety;  
18 and be it further

19 RESOLVED, That the study shall be completed by November 30,  
20 2020.