

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

Approved Minutes of the November 2, 2023 Meeting

Members Present

Chair Craig Westover, Constable, Venango Co.
Major William Cawley, PA State Police
Patricia Norwood-Foden, Court Admin,
Chester County
Harry Albert, Constable,
Lebanon County
Honorable Wilden Davis, Delaware County

Commission Staff Present

Sherry Leffler, Constables' Program
Tracy Beaver, Constables' Program
Nicholas Hartman, Constables' Program
John Pfau, Constables' Program
Dorthey Jacobelli, PCCD
Theresa Ford, PCCD
Deborah Williams, PCCD
Charles Gartside, PCCD
Sally Barry, PCCD
Ekaterina Shull, PCCD

Visitors

Steve Shelow, PSU JASI
Tony Mucha, PSU JASI
Anthony Luongo, Temple University
Louis Mancini, Temple University
Constable Abraham Smith, Westmoreland County
Constable Jason Knapp, Allegheny County

Please note, additional constables were attending the Board Meeting, but did not elect to be recognized.

I. Call to Order:

The Constables' Education and Training Board (Board) meeting was held at 9:00 a.m. on Thursday, November 2, 2023 via in-person, and Teams. The Board Meeting was held in a hybrid style according to the Sunshine Act to make in-person an available option.

Mr. Nicholas Hartman announced that the meeting is being recorded and asked that all phones be muted until the appropriate time has occurred for comments to be made.

II. Introductions:

Chair Craig Westover asked the Board members to introduce themselves to establish a quorum. A sufficient number of Board members were present to establish a quorum.

Mr. Hartman acknowledged the Pennsylvania Commission on Crime and Delinquency (PCCD) staff that were in attendance.

Ms. Sherry Leffler reported that Mr. Hartman will remain on staff for the Constable's Education Training Program.

Chair Westover asked the Board to acknowledge the passing of Mr. Francis "Bud" Pietz, who was an active Board Member at the time of his passing. Chair Westover explained that Mr. Pietz was an active member of his community. The Constables Education and Training Board wants to thank Mr. Pietz for his hard work, and dedication.

III. Action Items:

Chair Westover asked Mr. Hartman to introduce the first Action Item: Unapproved Draft Minutes of August 10, 2023 Meeting, which can be found on pages 3 through 10 of the Board packet. The Board did not request the item to be read and did not offer any discussion. Further, there was no comment by Public Voice.

Constable Harry Albert made a motion to approve the Unapproved Draft Minutes, with Major William Cawley as the second.

VOTING AYE: Davis, Norwood-Foden, Albert, Westover, Cawley

VOTING NAY: None

ABSTAINING: None

The motion passed unanimously.

Chair Westover introduced the second Action Item: Unapproved Fiscal Report for November 2, 2023. This can be found on pages 11 through 16 of the Board Packet.

Ms. Ekaterina Shull provided the balance from the previous year as \$3,433,114.41, reported that from fee collections for July 1, 2023 thru June 30, 2024 as \$380,048.33 which leaves a total funds available as of September 30, 2023, of \$3,813,162.74. Both the financial expenditures and financial commitments totaled \$311,156.13 and \$3,212,803.34 respectfully as of September 30, 2023 for a grand total of \$3,523,959.47. The uncommitted balance as of September 30, 2023 was \$289,203.27. Class payments that have been received to date totaled \$22,953.00.

Constable Albert asked clarifying questions about the funds received line item on the fiscal report, and Mr. John Pfau explained that the number is a total of any payments received by the program for failures, Basic Training, etc. This information was provided for clarification before the Fiscal Department answered any additional fiscal questions. Ms. Shull explained how the number Constable Albert was questioning is being credited to the program.

Chair Westover then asked for a motion to approve the Unapproved Fiscal Report for November 2, 2023.

The motion to approve the Fiscal Report was provided by Judge Wilden Davis and seconded by Vice-Chair Patricia Norwood-Foden.

VOTING AYE: Davis, Norwood-Foden, Albert, Westover, Cawley
VOTING NAY: None
ABSTAINING: None

The motion passed unanimously.

Ms. Tracy Beaver introduced the third Action Item: Constable's Education and Training Board 2024 Meeting Schedule. This can be found on pages 16 of the Board Packet. Ms. Beaver explained that the meeting dates follow the same scheduling pattern as previous years. Ms. Beaver also explained the hybrid format of the future Board Meetings. Chair Westover asked if alternative dates were selected in case of a Board Meeting being cancelled. Mr. Pfau explained that lead time is needed before the Commission Meeting in case of any Action Items are needing to be prepared for the Commission Meeting to seek approval. Mr. Pfau also explained how each Board Meeting must also follow the Sunshine Act as outlined by the Office of Administration.

The motion to approve Constable's Education and Training Board 2024 Meeting Schedule was provided by Chair Westover and seconded by Constable Albert.

VOTING AYE: Westover, Albert, Davis, Norwood-Foden, Cawley
VOTING NAY: None
ABSTAINING: None

The motion passed unanimously.

Chair Westover introduced the fourth Action Item: Instructor Certifications. This can be found on pages 17 through 22 of the Board Packet.

Ms. Beaver was asked to introduce the PSU-JASI instructors for Board approval: Stephen Marshall (PSU-JASI – Defensive Tactics); Sean O'Block (PSU-JASI – Physical Skills, and Firearms); and Daniel Witt (PSU-JASI – Firearms). Mr. Hartman was asked to introduce the Temple instructors for Board approval: Scott Krzywonos (Temple – General, Communications, and Firearms); Wayne Lamb (Temple – Firearms); and Keith Thomas (Temple – General, Communications, Physical Skills, and Firearms). All the instructor candidates met the requirements for Board certification to teach their requested topics. Constable Albert asked out of the instructors for Temple, and PSU-JASI, how many are Constables. Mr. Pfau explained that only six instructors between the two schools are Constables. Mr. Pfau explained that the Board has tried to recruit Constables as instructors, but many Constables did not have the required training background needed to become an instructor. Mr. Pfau explained that the schools held trainings to provide the Constables the background they needed for instruction. Mr. Pfau explained that attrition has occurred over the years regarding the Constables trained as instructors. Ms. Leffler provided that 40 Constables had received instructor instruction, and only six are currently instructing.

Constable Albert made the motion for approval, with Ms. Norwood-Foden seconding the motion.

VOTING AYE: Westover, Albert, Davis, Norwood-Foden, Cawley

VOTING NAY: None

ABSTAINING: None

The motion passed unanimously.

Mr. Hartman introduced the fifth Action Item: Act 49 Accommodations Policy. This can be found on pages 23 through 25 of the Board Packet.

Ms. Leffler explained that the final version of the policy was being presented to the Board. Ms. Leffler explained that Program staff will review requests for accommodations, so that it is understood that submitting a request for an accommodation does not mean it will be granted without being reviewed. Ms. Leffler explained that reviews will be on a case by case basis.

Chair Westover asked what the process was for approval, and Mr. Pfau said it will go to the Commission for approval, and if approved will go into effect in 2024. Mr. Pfau explained that the Sheriff's program does not have a policy, but uses the accommodations provided by PSU.

Constable Albert asked a clarifying question regarding the non-participation waiving of performing physical skills at training. Mr. Pfau explained as to why the Board had not decided regarding the requirement of Constables to participate during training. Ms. Leffler added that no accommodations will be permitted at Firearms courses due to the requirements of being able to safely navigate the range. Constable Albert stated that if there are requirements for Firearms, then there should be requirements for physical skills. Mr. Pfau explained the liability of waiving out of physical skills, and how not participating could impact a Constable's safety.

Chair Westover added that Firearms Certification is not a requirement of being a Constable. Constable Albert addressed his concern regarding that rules are not consistent. Ms. Leffler clarified that the concern about not participating in physical skills is addressed in the proposed policy, and how not participating alters the training received. Mr. Pfau added the lacking employee-employer relationship also limits how much the Board can require.

Ms. Norwood-Foden praised the policy, and thanked Program staff for their hard work on the policy.

The motion to approve the Accommodations Policy was provided by Judge Davis and seconded by Vice-Chair Norwood-Foden. Chair Westover added that there is the hope that with the creation of policies for the Program, that if there is an ideological disagreement, it will lead to the General Assembly becoming involved, and help to better define Constables.

Ms. Norwood-Foden made the motion for approval, with Judge Davis seconding the motion.

VOTING AYE: Davis, Norwood-Foden, Westover, Cawley

VOTING NAY: Albert

ABSTAINING: None

The motion passed.

V. Discussion Items:

Mr. Hartman introduced the Constables' Program Supervisor's Report. Ms. Leffler introduced statistics as of October 31, 2023, regarding the 2023 Continuing Education Courses: with 33 being completed, and three canceled for a total of 36 classes. Program staff is working with Temple to receive online grades. Program staff has been sending communication to the Constable population reminding of the November 17, 2023 due date for the online courses. 810 constables have completed the in-person component of Continuing Education. Regarding Online Training, out of the 889 enrollments 545 Constables (61%) have completed De-Escalation, 562 Constables (63%) have completed Disease of Addictions, and 502 Constables (56%) have completed Legal Updates. De-Escalation had 32 first attempt failures, and two second attempt failures with no double failures. Disease of Addictions had 53 first attempt failures, and 14 double second attempt failures with one double failure. Legal Updates had 59 first attempt failures, and 14 second attempt failures with one double failure. 470 Constables (53%) have completed all the 2023 Continuing Education requirements.

Ms. Leffler introduced statistics regarding the 2023 Annual Firearms Qualifications to the Board: with 36 being completed, and six canceled. 561 have successfully completed the firearms qualification, and 33 failures of which three were double failures.

Ms. Leffler presented that six Basic Training Courses were schedule, and four were completed. Ms. Leffler added that seven Basic Firearms Training Courses were scheduled, and five were completed. The failure rate of Basic Firearms was at 9 Constables (9%).

Ms. Leffler reported that as of October 31, 2023, there are 870 certified constables and deputy constables. 669 of the 870 are firearms certified and a total of 4,835 constables and deputy constables have either completed the Basic Training or passed the Waiver Exam since 1996.

Chair Westover asked if it were possible to find out how much time a Constable is taking to complete the online subjects, and Ms. Leffler said that Temple can provide the analytics regarding the amount of time being taken for each online subject. Ms. Leffler explained that Constables are taking varying amounts of time to complete the subjects, and the pass failure rate is not consistent.

Ms. Leffler explained that the Regulation Changes were approved at the September 20, 2023 Commission meeting, and Program staff is working with Legal Counsel on preparing the documentation for external review.

Judge Davis asked what would cause cancellations for classes, and Mr. Pfau explained that the cancelations are due to low enrollment. Judge Davis asked what a double failure means, and Mr. Pfau explained that a double failure means that a Constable does not receive a third attempt during the year.

VI. Informational Items:

Mr. Hartman introduced the first Informational Item: Act 49 Firearms Qualification Ammunition. Mr. Pfau explained that during the pandemic, the Board allowed Constables to use ball ammunition

to shoot at qualification. Ball ammunition is an antiquated term. Mr. Pfau explained that other agencies allowed their employees to use ball ammunition for qualification. Mr. Pfau explained that using ball ammunition from a liability point of view may not be conducive for Constables. Mr. Pfau explained the Board cannot dictate what type of ammunition the Constables use but did want to educate the Constables on how ball ammunition can operate.

Constable Albert had concerns about ball ammunition, and how it is possible that the bullet could go through multiple targets. Mr. Pfau agreed with Constable Albert's concern but reiterated how the Board is not the Constables employer and cannot tell the Constables what type of ammunition to use. Mr. Pfau explained legislatively there is not much in Act 49 that would allow the Board to tell a Constable what type of ammunition they could use. Mr. Pfau feels that the Board does not have the legal backing to make this decision.

Chair Westover asked Mr. Tony Mucha how many Constables in the Western Region were using ball ammunition, and Mr. Mucha anticipates it was a third of the population was using ball ammunition at the firearms qualification. Mr. Mucha has tried to engage in conversations about ball ammunition and provide education about how ball ammunition operates. Mr. Mucha said that cost was a factor mentioned to him. Chair Westover discussed the concern of liability versus cost of the ammunition, and what if over penetration occurred, and struck a by-stander. Constable Albert explained that Constables carry duty ammunition on the street but use ball ammunition when attempting the firearms qualification. Constable Albert believe it should be a yes, or no decision, and Mr. Pfau agrees that it would take legislation to answer the question. Mr. Pfau also reminds the Constables that it is ultimately their liability as to what happens when they make the decision to fire a round and being sued. Mr. Pfau stated that since Constables are independent contractors that the liability falls onto them, and not on to an agency.

Chair Westover then discussed Constable Albert's point of Constables splitting duty, and ball ammunition in their magazines when attempting the qualification. Mr. Mucha reminded the Board about academic integrity regarding the signing of the ammunition that the Constable is using. Mr. Mucha also said that the instructors have not observed this practice occurring at the firearms qualification. Mr. Pfau added that during the qualification he has observed that Constables typically take the box of ammunition they are using with them and are unable to split ammunition types due to the pace of the firearms qualification course of fire.

Constable Albert then asked how many Constables say they are qualifying with their duty ammunition but are using their ball ammunition. Constable Albert feels the instructors should be aware of this practice. Judge Davis asked if instructors should be educating the Constables on the difference between ball ammunition, and duty ammunition. Mr. Pfau explained that during Instructor Updates, the topic of ball ammunition will be discussed this year.

Constable Albert then asked if ball ammunition ballistically is different with how a firearm operates. Mr. Pfau explained that he is not a ballistics expert but anticipates it may impact at a level of distance. Mr. Pfau also added that the eight Constable shooting either occurred at point blank range, or near the 15-yard range. Mr. Pfau explained that the goal is to hit what the Constable is firing at, and the concern that ball ammunition over penetrates the target.

Mr. Pfau introduced the second Informational Item: 2024 Curriculum Overview. Mr. Pfau explained that the Board was provided a corrected version of the Course Descriptions separate from what was provided in the Board packet. Mr. Pfau then provided information regarding the subjects for the 2024 Training Year: Working with Different Disabilities, Lessons Learned, Legal Updates for online training, and Court Security, and Judgmental Use of Force for in-person training. The information provided was pulled from the Course Descriptions.

Judge Davis asked if the use of Constables in Philadelphia regarding Landlord Tenant remedies would be discussed in the online subjects, and Mr. Pfau explained that the topic was not being addressed due to how Philadelphia was using a private agency to handle evictions. Chair Westover added that he has noticed a difference in handling Landlord Tenant remedies prior to, and after the pandemic. Chair Westover explained that he is receiving more opposition and having to escort individuals out of residencies when prior to the pandemic he did not experience these issues. Ms. Norwood-Foden asked if Chair Westover worked with a second Constable regarding evictions, and Chair Westover explained that there are not enough Constables in his county to have two attending an eviction. Ms. Norwood-Foden then asked Judge Davis if it must be approved by a judge to appoint a second Constable to attend an eviction in Delaware County. Mr. Pfau suggested that if legislation were to be introduced, as discussed earlier in the Board meeting, that during evictions it be recommended that two Constables be able to attend for safety concerns. Judge Davis added that Constables have also discussed the topic of increasing the number of Constables assigned to an eviction in Delaware County. Chair Westover also added that the amount of time to complete an eviction can also impact the Constable's ability to make money. Judge Davis reiterated the concerns about safety.

Mr. Pfau explained that Legal Updates online training will be using new software that will be more interactive for the Constable population. For example, a Constable will need to interact with the slides in more detail to progress through the training. Constable Albert addressed his concern regarding allowable time, and time used for the subject. Mr. Pfau explained that Constable Albert's concern is part of the piloting of the new software. Mr. Pfau explained that Program staff will be working with Temple on how to best use the software after piloting in 2024 with the Legal Updates subject.

Mr. Hartman introduced the third Informational Item: Administrative Office of Pennsylvania Courts (AOPC) Data Update. Mr. Pfau explained that Dr. Orth, and Mr. Gartside needed to request additional data from AOPC to provide additional analysis of the existing data. Mr. Pfau added that the report will not be available until the February meeting, as Dr. Orth, and Mr. Gartside are currently analyzing the data. Mr. Pfau introduced the topic of Sheriffs' Offices completing work that would generate Constables Education Training Act (CETA) funds, and how data had shown that work was being assigned to the Sheriffs. However, Mr. Pfau added that there is a decrease with work being assigned to Sheriffs, and it is now returning to Constables. Mr. Pfau then provided the following math: \$5 CETA fee assessed times 182,000 dockets would be a total amount of money of \$900,000.00 that could have been going to the CETA fund. Mr. Pfau added that due to the decrease in certified Constables could be a reason why counties are using Sheriffs. The data also had shown a difference in the type of working being assigned to Sheriffs versus Constables. Mr. Pfau hopes that the data will explain if it is a decrease in certified Constables as to why Sheriffs are being used more in counties. The topic of revenue not being collected or assessed was discussed in more detail regarding how it impacts the CETA fund. Mr. Pfau explained that it is difficult to

track the amount of fees assessed through the Sheriffs and Deputy Sheriffs Program and added that AOPC does not track these statistics.

Mr. Pfau explained how Clean Slate limits the amount of information provided by AOPC, and this will provide an increase of secured dockets. The increase of secured dockets may impact the data being analyzed. Constable Albert then asked about the systems used by Deputy Sheriffs regarding the tracking of data. Ms. Norwood-Foden provided clarification about the systems used, and how the data is stored. Ms. Norwood-Foden explained each county has their own system for tracking the data, and only reports the cumulative data to AOPC. Mr. Pfau explained that each county would need to be contacted and be requested for their individual data. Mr. Pfau added that clarity is occurring with Sheriff fee collections due to money coming directly to Pennsylvania Commission on Crime and Delinquency (PCCD) fiscal staff. Fiscal staff is also able to educate counties on the increase of the Sheriff's collection fee.

Mr. Hartman introduced the fourth Informational Item: 2023 Act 49 Constable Training Grievances Update. During the 2023 Training Year, two grievances were filed to Program staff: the incompleteness of online training, and a Basic Firearms failure. No new information was provided past the initial grievance, and therefore both grievances are listed as resolved.

Chair Westover introduced the fifth Informational Item: Constables' Basic Firearms Training Review. Mr. Pfau explained a Workgroup had been created with instructors from the Program, and individuals outside of the Program whom have experience with firearms instruction. The Basic Firearms curriculum was provided to the Workgroup for review with the focus of teaching a person who has not used a firearm before how to successfully use and operate a firearm. The Workgroup believed that the training curriculum is effectively meeting the intended goal, and that the qualification correctly tested the students on the basics of firearms. The Workgroup recommended the addition of 8 to 16 additional hours on the range be added to the current Basic Firearms curriculum. Mr. Pfau added that Program staff was not surprised at the recommendation. Mr. Pfau added that the instructors in the Workgroup are vested in the topic because of being the person who is training a Constable on how to use a firearm, and the consequences of a Constable misusing their firearm, and how it would make the instructor look. Mr. Pfau added that the suggestion by the Workgroup is not being accepted without further discussion.

VII. Other Business:

No Other Business was discussed.

VIII. Public Voice:

Constable Abraham Smith from Westmoreland County discussed his support of using hollow points as duty ammunition, and the use of ball ammunition at the firearms qualification. Constable Smith also added that the practice ammunition provided at Basic Firearms is ball ammunition. Constable Smith voiced his concerns about cost of ammunition types.

Constable Jason Knapp from Allegheny County asked how the recordings of the Board meetings can be made available to the Constable population. Mr. Pfau, and Ms. Sally Barry said that the request would be a topic that would need to be discussed with PCCD Legal Counsel. Ms. Barry

explained from other PCCD meetings that to request a copy of the recording it would have to be submitted through a Right to Know Request. Ms. Barry said the meeting minutes can be forwarded, and Mr. Pfau explained that the minutes can be found on the website. Constable Knapp reiterated the information provided and asked if it had to go through a Right to Know Request, and Ms. Barry said someone will provide Constable Knapp with an answer.

IX. Adjournment:

Chair Westover asked for a motion to adjourn the meeting at 10:33 am.

A motion was made by Judge Davis to adjourn the meeting and the motion was second by Constable Albert.

VOTING AYE: Westover, Albert, Davis, Cawley, Norwood-Foden

VOTING NAY: None

ABSTAINING: None

The motion passed unanimously. The next Board meeting will be held on February 8, 2024 at 9 a.m. via Teams, and in-person at PCCD.