

Pennsylvania House of Representatives

House Judiciary Committee Hearing on Constables

February 18, 2009

Comments by:
Pennsylvania State Constables Association

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Comments on the position of the Pennsylvania State Constables Association (PSCA), presented by Thomas Impink, President and Emil Minnar, Executive Director.

Thomas Impink, President:

Good morning Chairman Caltagirone and members of the House Judiciary Committee. It is a pleasure and honor to be able to participate in these hearings and to have the opportunity to offer information to the committee relative to Constables.

As the current President of PSCA, it is important that those in attendance here today are aware of PSCA's activities. PSCA is a non-profit (501C-3), statewide organization with a primary mission to promote certain educational goals as one of its services to its membership. This association has been in existence since early 1972. This association is the result of the joining together of several smaller constable groups, all sharing the common desire to improve the efficiency and performance of the constable and the constable system in Pennsylvania.

Historically, the association has offered training programs, seminars, and an ongoing annual conference (35th) as a means of improving the constables' service to the Commonwealth's Court System. These aforementioned programs have focused on the primary functions performed by the constables -- that of serving civil and criminal process, courtroom security as needed and the transportation of prisoners. These aforementioned services are generally associated with the Magisterial District Court system. However, in some instances counties/districts utilize the constable for specific functions for the Common Pleas and Domestic Relations Courts. With the constable being deemed an "Independent Contractor", his services are dictated by statutorily fees. These related services are sometimes dictated by the lack of availability of court-related personnel and sufficient funding. It is for activities of this nature that PSCA provides ancillary training and information to assist the constable perform his requested services properly for other areas of court-related work.

Most notable was PSCA's residential training program developed by the Association to fill the void created by Act 147, an intended training bill, being struck down as unconstitutional in 1994 by the PA Supreme Court. PSCA filled the "breach" by scheduling weekend classes in nine (9) locations around the state to prepare new and minimally working constables for Magisterial District Court Services. This PSCA training program produced in excess of 500 trained constables who were accepted by the courts for performing service of process. Many of those "graduates" still actively serve the courts today. The success of this effort was acknowledged by the Minor Judiciary Education Board – an advisory board appointed by the Pennsylvania Supreme Court to set training standards for the Magisterial District Judges.

I relate these activities and accomplishments by PSCA to exemplify our mission and sincerity for the preparation of the best cadre of constables for court service. We recognize that recently, actions of certain constables have been detrimental to the Office of Constable. PSCA stands ready to work cooperatively with the Legislature and the Judiciary in any capacity to eliminate the possibilities for further public concern and to improve and solidify the constable system in our Commonwealth.

At this point I would like to turn the last portion of this presentation over to Mr. Minnar, Executive Director of PSCA, who will address specific concerns and recommendations for consideration by the Judiciary Committee. Before I do so, I want to thank Chairman Caltagirone and the Committee for inviting us to testify here today. With this said, I introduce Mr. Emil Minnar, Executive Director.

Emil Minnar, Executive Director:

Thank you Tom. I too want to thank Chairman, Caltagirone for affording the opportunity for me to address the Committee today. It was mentioned previously that PSCA has programmed a series of training opportunities to better serve the constable when he/she is working for the courts. Beyond this, a concerted effort has been exercised to monitor and promote legislation favorable to the Office of Constable. The first counter acting "knock-out punch" to constables was delivered in 1983 when Pa. R.C.P.M.J. Rule 17 of the Pennsylvania Rules of Court removed the responsibility of President Judges for the supervision of constables. Shortly after this rule change, PSCA pursued legislation in the 1980's to offset this lack of supervision and formalize training but it did not materialize. Further attempts at crafting legislation failed again in the early 1990's. With then Act 147 being declared unconstitutional by the Pennsylvania Supreme Court in 1992, and further designating constables as "Independent Contractors", any hope for identifiable supervision of constables became non-existent. This decision also placed the constable in the Executive Branch of government. Truly, the constables at that point were and presently still are in a "boat without a rudder."

Since then, the biggest concern shared by all is the lack of supervision and discipline over the constable system. These concerns have been exemplified by illegal and questionable actions by a small number of constables and further giving the media an opportunity to create dramatic headlines at the expense of the office and the system. True, while certain illegal acts have been committed by constables, the prosecution for these actions has been minimal for whatever reasons. Eighteen (18) years without supervision have gone by and the number of concerning incidents continues. The resultant is a direct reflection of a void that still continues to permit the occurrence of these problems. Training alone cannot eliminate these problems. **Supervision and Disciplinary** actions are necessary to assure a functional and noteworthy system.

The Pennsylvania Commission on Crime and Delinquency (PCCD), the commission responsible for constable training, provides all of the information regarding the training necessary for service to the judiciary; however, they cannot guarantee daily acceptable actions by constables. In practice, some constables tend to believe they can function as police officers. Some communities and their leaders expect constables to perform unrelated duties which would expose the constable to a host of liability issues. Further, the badge of the office is being misused, in that some constables are performing duties unrelated to court service while in uniform, yet holding themselves out as constables.

PSCA believes the resolution of the constable system should start with the identification of all laws related to constables.

This **codification of laws** related to constables would provide the basis for determining the authority of the Office of Constable. Necessary training could then address these identified responsibilities. Further, certain questionable, grey areas of activity by constables could be qualified, where determined justifiable and acceptable.

Secondly, there is an obvious need for a system for constable **supervision** and **disciplinary action** when deemed necessary, as a means for eliminating certain less than acceptable constable activities and negative public reaction to the constable system.

Thirdly, there appears to be a wide variance in the method for clearly reporting income that constables produce for the counties and the expenses for same. Also, the interpretation of constable fees vary, yet they are statutory in nature. There must also be some standardization in these areas.

At present, there are approximately **1160** certified constables throughout the Commonwealth currently serving process for the **560** Magisterial District Courts – these courts being the entry court for all criminal and civil actions. In 2008, warrant service alone by constables' accounted for **100,690** warrants served, producing an income for the counties of **\$7,143,604.18** for fines collected. It is important to know that constables absorb all of their operating expenses, with no perks or benefits comparable to salaried court employees. Realistically, the constable system is a cost free system of service to the judicial branch and equally important to the taxpaying public. The constable system provides a major service to the courts with little or no financial burden for its service. From an economic stand point it is a wise investment with little financial risk. In an effort to assure this continued service, it is necessary that the various interest groups cooperatively work together to develop favorable adjustments to the constable system to assure continued service to the judicial system and the public.

In this regard, PSCA offers its knowledge and experience to those who might consider the crafting of legislation for the improvement of the constable system.

Again, I would like to thank Chairman Caltagirone and the Committee for the opportunity to address you today.

Should you have any questions we would be pleased to offer additional comments for your information.

Thank You Again.