

Regulatory Analysis Form		This space for use by IRRC 2001 JAN 31 PM 1:59 REGULATORY REVIEW COMMISSION IRRC Number: #2163
(1) Agency Pennsylvania Commission on Crime & Delinquency, Constables' Education and Training Board		
(2) I.D. Number (Governor's Office Use) 35-26		
(3) Short Title Constables' Education and Training Board		
(4) PA Code Cite 37 Pa. Code Chapter 431	(5) Agency Contacts & Telephone Numbers Primary Contact: Gerard M. Mackarevich, Chief Counsel 705-0888 Ext. 3034 Secondary Contact: Stephen Spangenberg 705-3693 Ext. 3040	
(6) Type of Rulemaking (check one) <input checked="" type="checkbox"/> Proposed Rulemaking <input type="checkbox"/> Final Order Adopting Regulation <input type="checkbox"/> Final Order, Proposed Rulemaking Omitted	(7) Is a 120-Day Emergency Certification Attached? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes: By the Attorney General <input type="checkbox"/> Yes: By the Governor	
(8) Briefly explain the regulation in clear and nontechnical language. The regulation will set forth the procedures used by the Constables' Education and Training Board in administering programs for the training of constables and deputy constables. The regulation will establish the content of the basic training program for new officers and continuing education for experienced officers, which applicable law requires the officers to successfully complete to hold certification by the board. Current certification is required by law for a constable or deputy constable to perform judicial duties. The regulation also will establish standards for the Board's qualification of constables and deputy constables to carry and use fire arms in the course of their duties. The regulation also will establish standards for the schools approved by the board to administer the training		
(9) State the statutory authority for the regulation and any relevant state or federal court decisions. The regulation is authorized by section 1 of the Act of June 15, 1994 (p.l. 265, no. 44) which is set forth at 42 Pa. C.S.A. § 2941 <u>et seq</u>		

Regulatory Analysis Form

(10) Is the regulation mandated by any federal or state law or court order, or federal regulation? If yes, cite the specific law, case or regulation, and any deadlines for action.

Yes. See number 9 above.

(11) Explain the compelling public interest that justifies the regulation. What is the problem it addresses?

Prior to the enactment in 1994 of the legislation referenced in No. 9 and 10 above, no training was required of constables or deputy constables performing judicial duties within the Commonwealth. The training implemented by this regulation will enhance the professionalism of the approximately 1,800 constables and deputy constables actively performing judicial duties within the Commonwealth.

(12) State the public health, safety, environmental or general welfare risks associated with nonregulation.

The public would have some safety risk if constables and deputy constables are serving civil and criminal papers and performing other judicial duties while carrying firearms without proper training.

(13) Describe who will benefit from the regulation. (Quantify the benefits as completely as possible and approximate the number of people who will benefit.)

More intensive training for the constables who perform legal duties will increase competence levels of the constable cadre and generate customer service benefits for the litigants and witnesses in legal matters, and for the public generally. The Administrative Office of State Courts reports that, in calendar 1998, the most recent year for which statistics are compiled, the following procedures or judicial events took place: non-traffic arrest warrants served, 68,806; traffic warrants served, 185,298; civil actions disposed, 144,944, including 18,269 executions; landlord-tenant matters disposed, 59,651, including 24,206 possessions; Protection from Abuse Orders, 4,795 new cases opened, 3,348 involving evictions. Although constables or deputy constables were by no means involved in all of these events, it is reasonable to assume that they participated in a significant subset of them. Consequently, enhanced training will provide for better performance.

(14) Describe who will be adversely affected by the regulation. (Quantify the adverse effects as completely as possible and approximate the number of people who will be adversely affected.)

None are anticipated

Regulatory Analysis Form

(15) List the persons, groups or entities that will be required to comply with the regulation.
(Approximate the number of people who will be required to comply.)

According to Board records, a total of 1,651 constables and deputy constables held current Board certification as of September 1, 2000. It has been the Board's experience that substantial numbers of new constables and deputy constables seek initial Board certification each year. The Board historically has allowed only a fraction of the new hires a basic training waiver, based on their prior training and experience. Consequently, the majority of the new hires will be required to successfully complete the 80-hour course. Moreover, currently certified constables and deputy constables will require annual continuing education.

(16) Describe the communications with and input from the public in the development and drafting of the regulation. List the persons and/or groups who were involved, if applicable.

In initially designing the training program, PCCD staff on behalf of the Board conducted extensive public outreach to those likely to be affected by the regulation. Among other things, the staff in early 1996 conducted a series of six meetings throughout the state. One meeting each was held in the South Central, Southeast, Southwest, Northeast, Northwest and North Central regions. Approximately two weeks before each meeting, staff mailed a letter to each constable in that region, inviting them to register for the meeting to provide input. At each site, staff conducted two three-hour sessions, limited to 30 constables each. Also in attendance were district justices and municipal officials. At the sessions, constables and deputy constables completed job task inventory surveys designed to develop a cross-section of the frequency of judicial duties performed. Input also was provided as to preferences relating to scheduling of training and waiver examinations. After collecting this input, PCCD staff and the Board designed a curriculum that in their view maximized basic training, continuing education and firearms qualification courses mandated by the Act.

Subsequent to the initial development of the programs, the Board has communicated extensively with its regulated community. Constables' Training Bulletins are disseminated periodically to update constables, deputy constables, municipal officials, district justices and other court officials on any operational or curriculum changes. The Board conducts quarterly public meetings, and it has been its custom to hold at least one meeting a year in a location removed from Harrisburg. For example, the meeting of September 1999 was held in Montgomery County, and the Board conducted its September 2000 meeting in Scranton. At all public Board meetings, time is provided on the agenda for audience participation.

It should be noted that the composition of the seven-person Board as mandated by the Act promotes effective development of public input and advocacy. Specifically, three members of the Board are required to be constables, one a district justice, one a court administrator and one a county commissioner. Each of these members is appointed by the Governor with consent of a majority of the Senate. The seventh member is the Pennsylvania State Police Commissioner or designee.

Regulatory Analysis Form

(17) Provide a specific estimate of the costs and/or savings to the regulated community associated with compliance, including any legal, accounting or consulting procedures which may be required.

The regulation will not increase costs to the constables and deputy constables taking the training. The Commission is required by 42 Pa. C.S.A. § 2949 to pay for all tuition and other expenses for the training, which itself is required by statute. It is anticipated that those taking the training will experience a loss of income as a result of classroom participation, but, given the variety of scenarios and variations in compensation, such costs cannot be quantified.

(18) Provide a specific estimate of the costs and/or savings to local governments associated with compliance, including any legal, accounting or consulting procedures which may be required.

None are anticipated.

(19) Provide a specific estimate of the costs and/or savings to state government associated with the implementation of the regulation, including any legal, accounting, or consulting procedures which may be required.

A special restricted receipts account within the General Fund known as the Constable Education and Training Account was established by 42 Pa C.S.A. § 2949, funded through surcharges collected at the county level relating to initiation of civil matters or service of process. Such surcharges resulted in the collection of \$1,806,260.42 during the year ending June 30, 2000. The total cost of training incurred by the Board in fiscal 1999-2000 was \$1,434,847.82. Consequently, revenues exceeded expenditures by \$371,412.60 in fiscal 1999-2000. In the current fiscal year, expenditures are projected at \$1,966,632, and revenues at \$1,710,730. Although projected expenditures will exceed projected revenues, the Constable Education and Training Account held a balance of \$6,974,436 as of July 31, 2000.

Regulatory Analysis Form

(20) In the table below, provide an estimate of the fiscal savings and costs associated with implementation and compliance for the regulated community, local government, and state government for the current year and five subsequent years.

	Current FY Year	FY +1 Year	FY +2 Year	FY +3 Year	FY +4 Year	FY +5 Year
SAVINGS:	\$	\$	\$	\$	\$	\$
Regulated Community						
Local Government						
State Government						
Total Savings	\$-0-	\$-0-	\$-0-	\$-0-	\$-0-	\$-0-
COSTS:						
Regulated Community	\$-0-	\$-0-	\$-0-	\$-0-	\$-0-	\$-0-
Local Government	\$-0-	\$-0-	\$-0-	\$-0-	\$-0-	\$-0-
State Government	\$1,966,632	\$1,966,632	\$1,966,632	\$2,066,632	\$2,166,632	\$2,266,632
Total Costs	\$1,966,632	\$1,966,632	\$1,966,632	\$2,066,632	\$2,166,632	\$2,266,632
REVENUE LOSSES:						
Regulated Community						
Local Government						
State Government						
Total Revenue Losses	\$-0-	\$-0-	\$-0-	\$-0-	\$-0-	\$-0-

(20a) Explain how the cost estimates listed above were derived.

The above estimates are projections provided by PCCD based on historical experience.

Regulatory Analysis Form

(20b) Provide the past three year expenditure history for programs affected by the regulation.

Program	FY -3	FY -2	FY -1	Current FY
Constables Education and Training	\$923,187.00	\$1,296,620.00	\$1,434,847.82	\$1,966,632

(21) Using the cost-benefit information provided above, explain how the benefits of the regulation outweigh the adverse effects and costs.

The increased competence levels of the Commonwealth's constable cadre outweigh the effects of added costs, which themselves are sufficiently absorbed by the revenues generated by surcharges.

(22) Describe the non-regulatory alternatives considered and the costs associated with those alternatives. Provide the reasons for their dismissal.

None considered.

(23) Describe alternative regulatory schemes considered and the costs associated with those schemes. Provide the reasons for their dismissal.

None Considered.

Regulatory Analysis Form

(24) Are there any provisions that are more stringent than federal standards? If yes, identify the specific provisions and the compelling Pennsylvania interest that demands stronger regulation.

N/A

(25) How does this regulation compare with those of other states? Will the regulation put Pennsylvania at a competitive disadvantage with other states?

It compares favorably. The constable training will not put Pennsylvania at a competitive disadvantage with other states

(26) Will the regulation affect existing or proposed regulations of the promulgating agency or other state agencies? If yes, explain and provide specific citations.

No

(27) Will any public hearings or informational meetings be scheduled? Please provide the dates, times, and locations, if available.

No further public input meetings are scheduled, given the extensive input already generated as described in Paragraph 16 above. However, the Board and PCCD will be open to accepting input from the field, including at the Board's and Commission's quarterly meetings.

(28) Will the regulation change existing reporting, record keeping, or other paperwork requirements? Describe the changes and attach copies of forms or reports which will be required as a result of implementation, if available.

None.

(29) Please list any special provisions which have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, elderly, small businesses, and farmers.

N/A

Regulatory Analysis Form

(30) What is the anticipated effective date of the regulation; the date by which compliance with the regulation will be required; and the date by which any required permits, licenses or other approvals must be obtained?

Effective immediately.

(31) Provide the schedule for continual review of the regulation.

Annually

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WITH THE LEGISLATIVE REFERENCE BUREAU
(Pursuant to Commonwealth Documents Law)

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REGULATORY
REVIEW COMMISSION

DO NOT WRITE IN THIS SPACE

Copy below is hereby approved as to
form and legality. Attorney General

BY: *Walter J. Goh*
(DEPUTY ATTORNEY GENERAL)

OCT 23 2000

DATE OF APPROVAL

Check if applicable
Copy not approved. Objections
attached.

Copy below is hereby certified to be a true and correct copy
of a document issued, prescribed or promulgated by:

Pennsylvania Commission on Crime &
Delinquency Constables Education and
(AGENCY) Training Board

DOCUMENT/FISCAL NOTE NO. 35-26

DATE OF ADOPTION: _____

BY: *James Thomas*

TITLE: *Executive Director*
(EXECUTIVE OFFICER, CHAIRMAN OR SECRETARY)

Copy below is hereby approved as to
form and legality. Executive or Independ-
ent Agencies

BY: *Guido L. Guido*

9/26/00

DATE OF APPROVAL

(Deputy General Counsel)
(~~Chief Counsel, Independent Agency~~)
(Strike inapplicable title)

Check if applicable. No Attorney Gen-
eral approval or objection within 30
days after submission.

PENNSYLVANIA COMMISSION ON CRIME AND DELINQUENCY

CONSTABLES' EDUCATION AND TRAINING BOARD

[37 PA. CODE CH. 431]

The Pennsylvania Commission on Crime and Delinquency and its Constables' Education and Training Board are publishing this proposed rulemaking that would add Chapter 431 to the Commission's regulations in Title 37 of the Pennsylvania Code. The proposal is made pursuant to the authority of 42 Pa.C.S.A. §§2944-2946 and 2948. It would establish training programs that constables and deputy constables must undergo in order to be paid for the work they do, and to be able to carry and use a firearm while conducting their occupation. The proposed regulation is set forth in Annex A.

A. Effective Date

The proposed regulation will be effective upon publication of the final-form regulation in the *Pennsylvania Bulletin*.

B. Statutory Authority

The regulation is proposed under the authority of section 1 of the act of June 15, 1994 (P.L. 265, No. 44), which is set forth at 42 Pa.C.S.A. §§ 2941-2950. (Act)

C. Background and Purpose

Legislation enacted in 1994 established the Constables' Education and Training Board (Board) as an advisory board to the Pennsylvania Commission on Crime and Delinquency (Commission). 42 Pa.C.S.A. §2943(a). Among other things, the Act directed that a constable or deputy constable may perform judicial duties and receive a fee, surcharge or mileage provided by the Act only if the officer is certified by the Board. 42 Pa.C.S.A. §2942(a).

As of September 1, 2000, a total of 1,651 constables and deputy constables held current certification issued by the Board. Constables and deputy constables are independent contractor who are engaged as needed, primarily by the district justices of the Commonwealth. They perform a variety of duties, including serving complaints, summons, subpoenas and other legal documents in civil matters, levying on goods and performing other duties related to execution proceedings, providing courtroom security and transporting prisoners, executing arrest warrants and performing other duties in criminal matters.

The Act, at 42 Pa.C.S.A. §2950 (f) and (g), sets forth a list of duties for which constables and deputy constables may be compensated by a court, provided they are certified by the Board as having been trained in accordance with the Act. The Administrative Office of State Courts reports that, in calendar 1998, the most recent year for which statistics are compiled, the following procedures or judicial events took place: non-traffic arrest warrants served, 68,806; traffic warrants served, 185,298; civil actions disposed, 144,944, including 18,269 executions; landlord-tenant matters disposed, 59,651, including 24,206 possessions; Protection from Abuse Orders, 4,795 new cases opened, 3,348 involving evictions. Although constables and deputy constables were by no means involved in all of these events, it is reasonable to assume that the Board's regulated community participated in a significant subset of them.

To carry out the certification function, the Board was authorized to certify candidates who successfully complete an initial 80-hour course of basic training, 42 Pa.C.S.A. §2945, and to reissue certification annually to those constables and deputy constables who successfully complete continuing education of no more than 40 hours per year. 42 Pa.C.S.A. §2946. The Board was directed to establish programs to accomplish this required training, 42 Pa.C.S.A. §2944 (3) and (4), and to approve and revoke the approval of schools and to certify instructors in connection with such training. 42 Pa.C.S.A. §2944 (5) and (6). The Board also was directed by the Act to establish standards for the qualification of constables and deputy constables who seek the capability of carrying and using firearms in the performance of their duties. 42 Pa.C.S.A. §2948.

The Act, at 42 Pa.C.S.A. §2949, provides that the various training programs shall be funded by a special restricted account within the General Fund known as the Constables' Education and Training Account. The fund accumulates through surcharges assessed as costs in criminal cases and in any civil case in which a constable or deputy constable performs a service. Using proceeds from the account, the Board is able to provide training that, for the most part, is free of charge to constables and deputy constables.

The Act empowered the Board to "[m]ake rules and regulations and perform other duties as may be reasonably necessary or appropriate to administer the education and training program for constables and deputy constables." 42 Pa.C.S.A. §2944 (10). The Board was directed to determine the content of basic training by regulation, and to include in basic training "instruction in the interpretation and application of the fees...". 42 Pa.C.S.A. §2945. The Act was otherwise silent as to the required content of the programs.

In 1995-96, Commission staff conducted a series of curriculum development meetings with constables, deputy constables and other interested parties throughout the state. A training program was designed, which the Board and Commission in 1996 approved for implementation, but no proposed rulemaking was published at the time. Due to the time urgency of the legislative mandate, the Board and Commission began the training programs in 1997. The Board and Commission at this time are publishing this proposed rulemaking to take official action to implement the authority of the Act to establish training.

D. Description of Proposed Regulation.

The proposed Chapter 431 would establish training programs to educate constables and deputy constables in applicable law and practical skills necessary for them to attain certification by the Board, thus allowing them to be compensated for performing judicial duties. The regulation also provides for the approval of schools, certification of instructors in the school, and firearms qualification for the constables and deputy constables who seek it. The regulation is divided into six general subheadings:

General provisions— This subheading sets forth the statutory authority and purpose for the rulemaking. It also lists definitions of key concepts, such as “basic training,” “certification,” “firearms qualification” and “waiver.”

Certification— This subheading describes the mechanism by which a person may register with the Board to be considered for certification, a status to be attained in order for a constable or deputy constable to be compensated by a court for judicial duties performed. To attain initial certification, a constable or deputy constable must either complete the basic training course successfully or pass the Board’s basic training waiver examination. The process of annual recertification is described, requiring successful completion of the Board’s continuing education course. Finally, the subheading describes the mechanism for issuing or reissuing a certification number to a constable or deputy constable, or rendering the number inactive or reactivating it, depending on the training status of the individual.

Basic training-- The substantive topics to be covered in the 80-hour basic training are listed. The same section proposes that future curriculum modifications may be made by publishing notice in the *Pennsylvania Bulletin* and in the *Constables’ Training Bulletin*.

The subheading establishes the criteria for successful completion of basic training: (1) mandatory attendance at all classroom training; (2) passing score on written examinations as established by the Board, and (3) demonstrated proficiency in practical skills. The Board is not inserting a specific passing grade into the criteria. Although the Board currently intends that a score of 70 percent on written examinations will constitute a minimum passing grade, the Board wishes to maintain the flexibility of adjusting the minimum score as needed without having to revise the regulation.

The Board under this subheading proposes to allow constables and deputy constables to apply for a waiver of the classroom attendance and examination requirements for certification, based on the Board’s determination that prior training undergone in other occupations is equivalent to the Board training. An individual granted a waiver by the Board must pass a specially-designed waiver examination in order to be certified. The individual must attend the

basic training course in its entirety and successfully complete it upon failing the waiver examination.

The waiver mechanism is designed to accommodate the individuals who are currently working as municipal police officers or deputy sheriffs, or who have recently ended those jobs or that of officers in the Pennsylvania State Police, and who desire to supplement their income by performing duties as constables and deputy constables. These individuals have already undergone training substantially similar to that of the Board and have been independently certified by other entities as being capable of performing their occupations. The implementation of such waiver mechanism carries out the mandate in the Act to “[p]romote the most efficient and economical program for...training by utilizing existing facilities, programs and qualified State and local personnel.” 42 Pa.C.S.A. §2944(8).

Finally, this subheading establishes various attendance policies. Specifically, individuals who are not yet elected as constables or appointed as deputy constables may take basic training at their own cost. It also provides for penalties for individuals who register to attend a basic training course but who cancel without timely notification to the school. The latter provision is designed to address the problem of those who commit to limited training slots, thus displacing other potential attendees, but who ultimately do not appear for the training.

Continuing Education--- Under this subheading, the Board describes the criteria for successful completion of the annual continuing education, which are similar to that for basic training. Regarding content, the proposal would allow the Board to adjust the curriculum periodically as it deems necessary. Such flexibility will allow the Board to introduce new or varied topics as needed within the statutory requirement of no more than 40 hours every year.

A waiver option is proposed for constables and deputy constables who have recently undergone equivalent training in other occupations. The Board may allow an individual to forego Board training in only those specific topics successfully undergone in the training program of the other certification entity. The constable or deputy constable will be required to attend and successfully complete all other topics in the Board program that are not waived by the Board.

The Board also sets forth an attendance policy penalizing constables and deputy constables who register for continuing education but who do not appear for the training, or who give notice of cancellation too late for the school to refill the slot.

Firearms qualification--- The Board under this subheading outlines the program for determining that a constable or deputy constable is qualified to carry and use a firearm in the performance of judicial duties. Most, but not all, constables and deputy constables seek to obtain firearms qualification by the Board.

The Board's firearms qualification program has similar criteria to basic training and continuing education in terms of attendance policies, what is needed to successfully complete the program and what topics may be waived. The Board recognizes additional categories of alternate occupations that may qualify for a waiver of Board firearms training in addition to that of municipal police officers and deputy sheriffs. The additional categories are officers of the Pennsylvania Game Commission and of the Pennsylvania Fish and Boat Commission.

Schools and Instructors—The Board under this subheading establishes a mechanism for approval of schools to be selected and contracted with to deliver basic training, continuing education and firearms qualification. The Board also proposes a mechanism for certification of instructors to teach in the schools.

E. Affected Persons.

Those directly affected by the proposed rulemaking are the constables and deputy constables who are required to undergo mandated training. As of September 1, 2000, a total of 2,512 persons were registered with the Board. Of these, a total of 1,651 constables and deputy constables held current Board certification. (Only those registered constables and deputy constables who recently have successfully completed training may be certified.) In addition, a total of 1,239 currently certified constables or deputy constables held current Board firearms qualification.

Those indirectly affected are participants in the Commonwealth's judicial system, including judges or other employees, those charged with criminal offenses, litigants in civil matters or witnesses in any judicial matter. All will benefit from a constable cadre that is well-trained.

F. Compliance with Executive Order 1996-1.

In initially designing the training program, PCCD staff on behalf of the Board conducted extensive public outreach to those likely to be affected by the regulation. Among other things, the staff in early 1996 conducted a series of six meetings throughout the state. One meeting each was held in the South Central, Southeast, Southwest, Northeast, Northwest and North Central regions. Approximately two weeks before each meeting, staff mailed a letter to each constable and deputy constable in that region, inviting them to register for the meeting to provide input. At each site, staff conducted two three-hour sessions, limited to 30 constables each. Also in attendance were district justices and municipal officials. At the sessions, constables and deputy constables completed job task inventory surveys designed to develop a cross-section of the frequency of judicial duties performed. Input also was provided as to preferences relating to

scheduling of training and waiver examinations. After collecting this input, PCCD staff and the Board designed a curriculum that in their view maximized basic training, continuing education and firearms qualification courses mandated by the Act.

Subsequent to the initial development of the programs, the Board has communicated extensively with its regulated community. Constables' Training Bulletins are disseminated periodically to update constables, deputy constables, municipal officials, district justices and other court officials on any operational or curriculum changes. The Board conducts quarterly meetings, and it has been its custom to hold at least one meeting a year in a location removed from Harrisburg. For example, the meeting of September 1999 was held in Montgomery County, and the meeting of September 2000 was held in Scranton.

It should be noted that the composition of the seven-person Board as mandated by the Act promotes effective development of public input and advocacy. Specifically, three members of the Board are required to be constables, one a district justice, one a court administrator and one a county commissioner. Each of these members is appointed by the Governor with the consent of a majority of the Senate. The seventh member is the Pennsylvania State Police Commissioner or designee.

G. Fiscal Impact and Paperwork Requirements

The proposed regulation will have minimal fiscal impact on the Commonwealth.

H. Sunset Date

The Board will review the effectiveness of its regulations on an ongoing basis. Therefore, no sunset date has been assigned.

I. Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on January 31, 2001, the Commission submitted a copy of this proposed regulation to the Independent Regulatory Review Commission (IRRC) and the Chairpersons of the House Judiciary Committee and the Senate Judiciary Committee. In addition to submitting this proposed rulemaking, the Department has provided IRRC and the Committees with a copy of a detailed Regulatory Analysis Form prepared by the agency in compliance with Executive Order 1996-1, "Regulatory Review and Promulgation." A copy of this material is available to the public upon request.

If IRRC has objections to any portion of the proposed regulation, it will notify the Commission within 10 days after the expiration of the Committees' review period. The notification shall specify the regulatory review criteria that have not been met by that portion.

The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the regulation, by the Commission, the General Assembly and the Governor of objections raised.

J. Public Comment and Questions

Interested persons are invited to submit written questions or comments regarding the proposed rulemaking to Gerard M. Mackarevich, Chief Counsel, Pennsylvania Commission on Crime and Delinquency, P.O. Box 1167, Harrisburg, PA 17108-1167, within 30 days of publication of this proposed rulemaking. Questions and comments may also be sent via electronic mail to gmackarevi@state.pa.us, or by facsimile machine to Mr. Mackarevich's attention at PCCD's Civil and Criminal Training Division (717) 783-7139.

Thomas W. Corbett, Jr., Esq.
Chair
Pennsylvania Commission on
Crime and Delinquency

Honorable James E. Russo
Chair
Constables' Education and Training Board

Fiscal Note: 35-26

Annex A

TITLE 37. LAW

PART VI. COMMISSION ON CRIME AND DELINQUENCY

CHAPTER 431. CONSTABLES' EDUCATION AND TRAINING BOARD

GENERAL PROVISIONS

§ 431.1 Statutory authority.

The act of June 15, 1994 (P.L. 265, No. 44) (42 Pa.C.S.A. §§ 2941-2950) provides the statutory authority for this chapter.

§431.2 Purpose.

This chapter sets forth standards and procedures relating to the certification of constables and deputy constables and their qualification to carry or use firearms in the performance of their duties.

§431.3 Definitions.

The following words and phrases, when used in this chapter, have the meanings as indicated:

Act - The act of June 15, 1994 (P.L. 265, No. 44) (42 Pa.C.S.A. §§ 2941-2950).

Basic training – A course of training administered by the Constables' Education and Training Board that, when completed successfully, entitles a new constable or one who has been out of office for not less than 5 years to perform judicial duties and be compensated under the Act.

Board – The Constables' Education and Training Board of the Pennsylvania Commission on Crime and Delinquency.

Certification – The Board's official determination that a constable or deputy constable has completed successfully the training required by the Act to perform judicial duties and be compensated.

Constable - A person currently serving as constable or deputy constable.

Continuing education – A course of annual training administered by the Board that, when completed successfully, entitles a constable to continue to perform judicial duties and be compensated under the Act.

Firearms qualification – The Board’s official determination pursuant to the Act that a constable is qualified to carry or use firearms in the performance of duties.

PCCD – The Pennsylvania Commission on Crime and Delinquency.

School – A facility approved by the Board that enters a contract with PCCD to conduct training.

Waiver – The Board’s grant of permission to a constable to reduce the hours of classroom attendance in a Board training course based on the Board’s determination that, because of prior training and experience, the constable has acquired knowledge or skill equivalent to that provided by the Board’s training.

CERTIFICATION

§ 431.11 Registration.

To be considered by the Board for certification, a person shall register with the Board by submitting all information requested by the Board. A registrant shall inform the Board of a change to information previously provided within 15 days of the change.

§ 431.12 Initial certification.

The Board will issue a certification to a constable who successfully completes basic training or attains a passing grade on the Board’s basic training waiver examination.

§ 431.13 Annual recertification.

(a) If a constable successfully completes continuing education, the Board will recertify the constable for the next calendar year.

(b) In order to maintain continuous certification, a constable shall complete continuing education during the calendar year following the year in which the constable completed one of the following:

- (i) Basic training.
- (ii) The basic training waiver examination.

(iii) A previous course of continuing education.

§ 431.14 Lapse of certification.

The certification of a constable who fails to complete continuing education successfully within the time allowed in section 431.13(b) of this chapter shall lapse and be listed by the Board as inactive. Upon successful completion of continuing education by a constable, the Board will re-activate the lapsed certification.

§ 431.15. Certification numbers.

(a) The Board will issue a unique certification number to a constable whom the Board has certified for the first time.

(b) If a person has not been elected or appointed as constable, but has successfully completed basic training, the Board will issue a certification number upon the individual's election or appointment and the notification to the Board by the constable of such election or appointment.

(c) The Board will re-issue the original certification number to a constable who successfully completes continuing education.

(d) If a person has vacated the office of constable or deputy constable, the person is required to notify the Board immediately. Upon such notification, the Board will place the applicable certification number into inactive status.

(e) Upon re-election or re-appointment to office, the constable shall notify the Board immediately. Based upon the timing of re-election or re-appointment, the Board will take one of the following steps:

(i) If the re-election or re-appointment occurs within a year of the constable's initial certification or most recent recertification, the constable's certification number will be re-activated as soon as practicable.

(ii) If the re-election or re-appointment occurs a year or more but less than 5 years after the constable's initial certification or most recent recertification, the Board will reactivate the original certification upon the constable's successful completion of the next available continuing education.

(iii) If the re-election or re-appointment occurs not less than 5 years after the constable's initial certification or most recent recertification, the Board will issue a new certification number upon the constable's successful completion of the next available basic training.

BASIC TRAINING

§ 431.21 Curriculum.

Basic training will consist of instruction in the following topics:

- (a) Role of the constable in the justice system.
- (b) Professional development.
- (c) Civil law and process.
- (d) Criminal law and process.
- (e) Use of force.
- (f) Mechanics of arrest.
- (g) Defensive tactics.
- (h) Prisoner transport and custody.
- (i) Court security.
- (j) Crisis intervention.

The Board may add, delete or modify one or more topics upon publishing prior notice of the change(s) in the *Pennsylvania Bulletin* and in an edition of the Constables' Training Bulletin that is distributed to constables and other interested parties.

§ 431.22 Successful completion.

(a) A constable or other person will complete basic training successfully upon meeting all of the following criteria:

- (i) Attending all of the hours of basic training required by the Act.
- (ii) Attaining a passing score as established by the Board on the written examination for each topic.
- (iii) Demonstrating to the Board's satisfaction proficiency in practical skills.

(b) A constable or other person who fails to achieve a passing score on a written examination may undergo a second examination.

(c) A constable or other person who fails to achieve a passing score in a second examination shall attend a second basic training in its entirety and complete it successfully to be issued a certification.

(d) A constable or other person may attend a third basic training upon failing to complete the second course successfully, but shall be given no additional opportunities upon failing to complete the third course successfully.

§ 431.23 Eligibility for waiver.

A constable who fits one of the following categories may apply to the Board for a waiver of the requirement to attend and successfully complete basic training:

(a) Current employment as a municipal police officer or deputy sheriff in this Commonwealth who demonstrates to the satisfaction of the Board that training and certification required to perform the applicable occupation are current.

(b) Employment within the past 2 years as a Pennsylvania State Police officer, municipal police officer or deputy sheriff, who demonstrates to the satisfaction of the Board that training and certification required to perform the applicable occupation were current at the time the constable terminated such employment.

§431.24 Waiver examination.

(a) The Board will issue an initial certification to a constable to whom the Board grants a waiver of basic training and who attains a passing grade score on the Board's basic training waiver examination as established by the Board.

(b) A constable shall have one opportunity only to obtain a passing score on a basic training waiver examination. A constable who fails the basic training waiver examination shall attend the Board's basic training course in full and complete it successfully to obtain an initial certification.

§ 431.25 Attendance policies.

(a) A person who is not a constable but who indicates an intention to seek election or appointment as a constable may register and attend basic training if an opening is available and the person bears financial responsibility for the cost.

(b) A constable or other person who registers for basic training may withdraw from the course without penalty upon timely notification to the director of the school conducting basic

training. A notification shall be deemed timely if it is delivered to the director of the school no later than 7 days prior to the start of classes. The school may assess a failing grade for all or part of basic training if the constable or other person fails to provide timely notification and the Board finds that substantial mitigating circumstances do not exist.

CONTINUING EDUCATION

§ 431.31 Curriculum.

The Board may adjust periodically the content of continuing education as it deems necessary to address new or varied topics or skills required to perform judicial duties set forth in the Act.

§ 431.32 Successful completion.

(a) A constable will complete continuing education successfully upon meeting all of the following criteria:

(i) Attending all of the hours of continuing education required by the Act, except for topics specifically waived by the Board pursuant to this chapter.

(ii) Attaining a passing score as established by the Board on each written examination taken.

(iii) Demonstrating proficiency in each examination of practical skills.

(b) A constable who fails to attain a passing score on any written examination may undergo a second examination for that topic.

(c) A constable who fails to attain a passing score in a second examination shall attend another course in the failed module and complete it successfully to be recertified. The constable shall bear financial responsibility for a second continuing education.

(d) A constable who fails two successive continuing education courses shall not be afforded an opportunity to attend a third course.

§ 431.33 Eligibility for waiver.

(a) At the beginning of each calendar year, the Board will determine for which specific topics it will entertain waiver requests from constables in that year's continuing education curriculum.

(b) A constable seeking annual recertification who is currently employed as a municipal police officer or deputy sheriff may apply to the Board for a waiver of certain topics in that year's continuing education curriculum if the constable demonstrates that equivalent training and certification required to perform the applicable other occupation are current.

(c) A constable shall apply to the Board for each year's continuing education for which the constable is seeking waiver.

§ 431.34 Scope of waiver.

(a) The Board will grant a waiver of continuing education for those topics that also were covered in the certification training for the other occupation.

(b) A constable who is granted a waiver of continuing education will be recertified despite absence from classroom attendance for those topics specifically waived by the Board, provided that the constable attends and successfully completes all topics in continuing education for which a waiver is not granted.

§ 431.35 Attendance policies.

A constable who registers for continuing education may withdraw without penalty upon timely notification to the director of the school conducting the continuing education. A notification will be deemed timely if it is delivered to the director of the school no later than 7 days prior to the start of classes. The school may assess a failing grade for the entire course or applicable topic if the constable fails to provide timely notification and the Board finds that substantial mitigating circumstances do not exist.

FIREARMS QUALIFICATION

§ 431.41. Qualification course.

(a) Unless granted a waiver by the Board as set forth in section 431.45 of this chapter, a constable shall attend and successfully complete a basic firearms qualification course established by the Board to be qualified for the first time by the Board to carry and use a firearm in the performance of duties.

(b) After a constable attains firearms qualification for the first time, the constable shall attend and successfully complete the Board's annual firearms qualification course to maintain firearms qualification, except to the extent the Board grants a waiver as set forth in section 431.45 of this chapter.

§ 431.42 Eligibility for firearms qualification.

A constable holding current Board certification who is not precluded under state or federal law from possessing or using a firearm is eligible to attend a firearms qualification course.

§ 431.43. Firearm and ammunition.

(a) A constable shall be responsible for providing a firearm, ammunition, magazines, speed loaders, safety accessories, cleaning equipment and other associated equipment as needed during the firearms qualification course.

(b) The firearm provided shall be of a design and caliber generally acceptable for law enforcement usage within this Commonwealth, and shall be in a condition for safe operation as designed and intended by the firearm manufacturer.

(c) The ammunition provided shall be of a type and design generally acceptable for law enforcement usage within this Commonwealth, and shall not be remanufactured or reloaded.

§ 431.44 Successful completion.

(a) The Board will qualify a constable to carry and use a firearm in the performance of duties who meets the eligibility criteria of section 431.42 of this chapter and who meets all of the following criteria:

(i) Attending all of the hours of training scheduled by the Board, except for topics specifically waived by the Board pursuant to this chapter.

(ii) Attaining a passing score as established by the Board on each written examination.

(iii) Demonstrating proficiency in each examination of practical skills, using the same firearm and the same or comparable ammunition that the constable will carry in the performance of duties during the upcoming year.

(b) A constable who fails to attain a passing score on a written examination or course-of-fire may undergo one retest of the applicable written examination or practical skill proficiency examination.

(c) A constable who fails to attain a passing score in a retest of a written examination or practical skill proficiency examination shall attend a second firearms qualification course in its entirety and complete it successfully to obtain a firearms qualification. The constable shall bear financial responsibility for the second firearms qualification course.

(d) A constable who fails two successive firearms qualification courses shall not be afforded an opportunity to attend a third course.

§ 431.45 Eligibility for waiver.

(a) A constable seeking firearms qualification who is currently employed as a municipal police officer, deputy sheriff or officer of the Pennsylvania Game Commission or the Pennsylvania Fish and Boat Commission may apply to the Board for a full or partial waiver of a Board firearms qualification course if the constable demonstrates to the satisfaction of the Board that training and certification required to carry and use a firearm in the applicable other occupation are current.

(b) A constable shall apply to the Board for each separate firearms qualification course for which the constable is seeking waiver.

§ 431.46 Scope of waiver.

(a) The Board will grant a waiver relating to a Board firearms qualification course for those topics that also were covered in the firearms training for the other occupation.

(b) A constable who is granted a waiver relating to a Board firearms qualification course will be qualified by the Board to carry and use firearms despite absence from classroom attendance for those topics specifically waived by the Board, provided that the constable attends and successfully completes all topics in the course for which a waiver is not granted.

§ 431.47 Attendance policies.

A constable who registers for a firearms qualification course may withdraw from the course without penalty upon timely notification to the school conducting the course. A notification will be deemed timely if it is delivered to the director of the school no later than 7 days prior to the start of classes. The school may assess a failing grade for the all or part of the course if the constable fails to provide timely notice and the Board finds that substantial mitigating circumstances do not exist.

§ 431.48 Lapse of qualification.

A firearms qualification will lapse immediately if a person who held the qualification no longer meets all of the eligibility criteria of section 431.42 of this chapter, or does not successfully complete a firearms qualification course in the calendar year following the person's most recent successful completion of such a course.

SCHOOLS AND INSTRUCTORS

§ 431.51. Board approval of school.

(a) The Board may select and approve one or more schools to conduct any of the various training programs that it administers under the Act.

(b) The Board will select and approve a school or schools to provide training from a list of candidates solicited by PCCD through a competitive process.

§ 431.52 Scope of approval.

Board approval of a school shall be effective only for the duration of the contract executed between PCCD and the school.

§ 431.53 Board certification of instructors.

The Board will certify instructors for its training programs from one or more persons who shall apply to the Board through a school and submit information as requested. Information shall include a detailed description of the formal training and actual experience in the specific topics for which certification is being sought, and a description of the instructional experience of the applicant.

§ 431.54 Scope and limitations of instructor certification.

A person certified by the Board as an instructor shall use such certification only while teaching Board training in a school. Board certification of an instructor shall be effective only so long as the instructor is actively involved in teaching in a school the topics for which certification was granted.

Commonwealth of Pennsylvania



PENNSYLVANIA COMMISSION ON CRIME AND DELINQUENCY

January 31, 2001

Thomas W. Corbett, Jr., Esq.
Chairman

James Thomas
Executive Director

Honorable John R. McGinley
Chairman
Independent Regulatory Review Commission
14th Floor, Harristown 2
333 Market Street
Harrisburg, PA 17101

RE: Proposed Regulation
Pennsylvania Commission on Crime and Delinquency
Constables' Education and Training Board
Document No.: 35-26

RECEIVED
2001 JAN 31 PM 1:59
INDEPENDENT REGULATORY
REVIEW COMMISSION

Dear Chairman McGinley:

Enclosed is a copy of a proposed rulemaking package of the Constables' Education and Training Board of the Pennsylvania Commission on Crime and Delinquency.

Please note that the enclosed proposal was previously submitted to the Commission on November 2, 2000, and was published in the November 18, 2000 edition of the *Pennsylvania Bulletin*. However, the sine die adjournment of the General Assembly occurred soon thereafter. Consequently, pursuant to the Regulatory Review Act, at 71 P.S. § 745.5 (e), PCCD is resubmitting the proposal. Please note that PCCD received no public comments during the 30 days following publication.

Our chief counsel, Gerard M. Mackarevich, will be pleased to provide whatever information that you and your staff may require during the course of its review of the rulemaking.

Sincerely yours,

Handwritten signature of James Thomas in cursive.

James Thomas
Executive Director

Enclosures

cc: Thomas W. Corbett, Jr., Esq.
Chair, Pennsylvania Commission on
Crime and Delinquency
Honorable James E. Russo
Chair, Constables' Education and Training Board
Mr. Stephen Spangenberg
Manager, PCCD Civil and Criminal Training Division
Gerard M. Mackarevich, Esq.
PCCD Chief Counsel

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**TRANSMITTAL SHEET FOR REGULATIONS SUBJECT TO THE
REGULATORY REVIEW ACT**

I.D. NUMBER: 35-26
 SUBJECT: Constables' Education and Training Board
 AGENCY: PENNSYLVANIA COMMISSION ON CRIME & DELINQUENCY

TYPE OF REGULATION

- Proposed Regulation
- Final Regulation
- Final Regulation with Notice of Proposed Rulemaking Omitted
- 120-day Emergency Certification of the Attorney General
- 120-day Emergency Certification of the Governor
- Delivery of Tolled Regulation
 - a. With Revisions
 - b. Without Revisions

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 INDEPENDENT REGULATORY
 REVIEW COMMISSION

FILING OF REGULATION

DATE	SIGNATURE	DESIGNATION
1/31/01	<i>Sandra J. Harper</i>	HOUSE COMMITTEE ON JUDICIARY
1/31/01	<i>[Signature]</i>	
	<i>Kevin R. Kusely</i>	SENATE COMMITTEE ON JUDICIARY
	<i>[Signature]</i>	
1/31/01	<i>Uma Tolbert</i>	INDEPENDENT REGULATORY REVIEW COMMISSION
		ATTORNEY GENERAL
		LEGISLATIVE REFERENCE BUREAU

January 30, 2001