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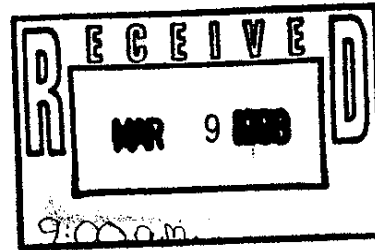
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Reply to: 505 Church Street
Norristown, PA 19401
(610) 272-PSCA
Fax (610) 272-5222

February 25, 1998

TO: Virgil F. Puskarich,
Executive Director
Local Government Committee
Senate Box 203078
Main Capitol Building
Harrisburg, PA 17120-3078



FROM: Emil J. Minnar,
Executive Director
PA State Constables Association (PSCA)

**SUBJECT: HOUSE RESOLUTION 167 TASK FORCE REPORTS -
RESPONSE TO PCCD REPORT ON LAW ENFORCEMENT
POWERS AND TRAINING OF CONSTABLES**

At the request of Senator Robert D. Robbins, Chairman -
House Resolution 167 Task Force (letter of 1-12/98), the
following comments are offered on behalf of Pennsylvania State
Constables Association (PSCA) in response to the PA Commission
on Crime and Delinquency (PCCD) Report submitted on 11-26-97
regarding law enforcement powers and training of constables.

Enclosure
pc: S. Corey, PSCA President
PSCA Executive Board

**Pennsylvania State Constables Association
Prepared for the Local Government Commission
House Resolution 167 Task Force
February 25, 1998**

**PSCA RESPONSE TO PCCD REPORT ON LAW ENFORCEMENT POWERS
AND TRAINING OF CONSTABLES.**

The PCCD report, while excellently prepared, apparently has not considered certain information which we deem important and therefore could present a different outlook on the determination of the constables' role in the provision of general law enforcement services within our Commonwealth.

Introduction

The report's historical references to constables and constables' powers are indeed a very accurate summary of the constables duties over past centuries. It is important for us to recognize that while the evolution and establishment of police departments in Pennsylvania have increased sizably, we should not ignore the fact that there are still many areas in the Commonwealth where law enforcement by local police departments is still either very limited or in fact, almost non-existent. The constable has, and still does fill this much-needed community service where these voids currently exist. Admittedly, police departments are increasingly filling these voids; however, the fact remains that many constables are still called upon presently by their communities to perform certain law enforcement duties.

Statutory Enforcement Powers and Case Law

While the constable, defined as a "Peace Officer", has found that his present duties focus primarily on service to the judicial system, this does not preclude his ability to perform under common law authority in a limited law enforcement capacity. References to 13 Pa. C.S., 45, Constables, and 16 P.S., 1216, Peace Officers (Constables, County Detectives, Sheriffs, Waterway Patrolmen and Game Protectors) - clearly define the constable's ability to make a warrantless arrest for any felony or breach of the peace, committed in his view. The interpretation of the Courts relative to these statutes, precipitated by appeals, has in fact created variances in the intent and application of law. In Commonwealth v. Leet, 641 A.2d 299 (1994), the Pennsylvania Supreme Court determined that the Court must not only look at statutory authority, but also the authority at common law as well. Further, in Commonwealth v. Taylor, 450 Pa. Super. 583, 677 A.2d 846 (1996), the Pennsylvania Superior Court found at common law the right to arrest without warrant for felonies and breaches of the peace and that there was no statute abrogating this power. Typically, the decisions on law enforcement powers of constables, based on Commonwealth v. Taylor and Commonwealth v. Roose, No. 902 Pittsburgh 1995, 1997 Pa. Super. LEXIS 246 (1997), offer two different views on the constables arrest powers. While the Roose decision is very limited in the constable's arrest powers, it is premature to cite it as precedent since it is currently under appeal and is scheduled for the Pennsylvania Supreme Court's

consideration on March 10, 1998. If the Pennsylvania Superior Court's decision is overturned, the decision would support the constable's arrest powers, thereby reconfirming the constable's law enforcement powers. Therefore, it is important that any decision on constables' arrest powers be reserved, pending the Pennsylvania Supreme Court's decision on Commonwealth v. Roose.

Training

References to constable training indicate that by comparison to police training (Act 1974-120), the constable's required hours of training are less (Act 1994-44). While this is so, the report fails to mention the number of required training hours the constable must satisfy for certification as compared to the required training hours of the deputy sheriff. Based on the current training requirements of Act 1984-2 (Deputy Sheriffs) and Act 1994-44 (Constables), over the constables' six (6) year term of office he/she will have completed 280 training hours, compared to 210 training hours for the deputy sheriff. The constable will continue to take up to 40 hours continuing education annually to maintain his certification, compared to 20 hours maximum every two years required of deputy sheriffs. This comparison is presented to illustrate the fact that constable training, mandated by law, exceeds that of deputy sheriffs. These required training hours for constables would indicate that constable certification training should provide a competence level consistent with the requirements for certain law enforcement services. The question of appropriate

and comprehensive training for constables as raised in recent court decisions would become a somewhat moot issue - particularly when compared with that of the deputy sheriff's duties and court decisions regarding deputy sheriff's arrest powers and related training.

With respect to an emphasis on law enforcement training for constables, the current constable basic 80-hour certification program contains 58 hours, or 72% of the training subjects related to law enforcement-related duties. Also, the current constable 40-hour continuing education program contains 38 hours or 95% law enforcement-related training subject matter.

**Administration and Function of Constables
in providing Law Enforcement Services**

The utilization of constables for law enforcement services raises the issue of supervision. Simply stated, the supervision of the constable would emanate from the governmental unit for which the constable is providing the service. The availability of the constable to perform these services and assume the related unit-supervision would be by his/her own acknowledgement and acceptance. To present, certain counties in the Commonwealth have utilized constables effectively for emergency law enforcement services - e.g. parades, crowd control, visiting dignitaries, traffic control, municipal contract employee strikes, drug enforcement/raids, prisoner handling, various emergency situations, etc. The successful completion of the aforementioned typical assignments

exemplify the fact that the constable is capable of providing certain law enforcement services.

Summary

Based on the extent of mandated constable training, common law, case law, and current appeal, the constable is capable of assuming a role providing certain law enforcement services. The utilization of constables for this purpose would not create an unjust demand on their capabilities or training, since a voluntary program of availability is suggested for consideration. The constable system can provide a cadre of trained, competent law enforcement officers, available on short-notice. These certified individuals have chosen to pursue necessary training, maintain liability insurance, equipment and contribute their personal time to properly prepare themselves to meet the requirements of the office of constable. It is practical and efficient to utilize this available knowledge, skills, and capability to assist in providing law enforcement services to the Commonwealth's citizens, as required.