

**REPORT OF THE HOUSE RESOLUTION 167 TASK FORCE
RECOMMENDATIONS ON IMPROVING LOCAL POLICING**



LOCAL GOVERNMENT COMMISSION
General Assembly of the Commonwealth of Pennsylvania
Harrisburg, Pennsylvania
September 1999

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www.lgc.state.pa.us





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Created in 1935

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October 1999

TO THE MEMBERS OF THE GENERAL ASSEMBLY:

The Local Government Commission is pleased to present the report of the House Resolution 167 Task Force on Improving Local Law Enforcement. This report contains eight recommendations to various statutes with explanatory materials.

The recommendations included in this report express the overwhelming consensus of the 30-Member Task Force representing Members of the General Assembly, Commonwealth departments and agencies, the Judiciary, municipal associations, and law enforcement organizations. However, we note that not all of the recommendations were adopted unanimously.

In recognition of the important work of the Task Force, the Local Government Commission, on behalf of the Members of the Task Force, strongly urges the Legislative Leadership and the Members of the General Assembly to not only consider the Task Force recommendations, but also to propose any legislation that may be needed to implement the recommendations. The staff of the Local Government Commission is available to provide assistance and support to Members of the Legislature and their staff who may wish to pursue this matter. On behalf of the Local Government Commission, I thank the Members of the Task Force for their valuable time and expertise.

Sincerely yours,

Senator Robert D. Robbins, Chairman
Local Government Commission



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***Replaced Senator Roy C. Afflerbach**

****Replaced Leroy Anthony**

*****Replaced Dennis C. Rickard**

******Replaced William Parkes**

*******Replaced Robert Pryal**

*******Replaced Colleen M. Fickel**

This final report was edited by the Local Government Commission's Assistant Director, Michael P. Gasbarre, and Research Analyst Philip G. Bear. Karen S. Bear was responsible for assembling this document. Any questions concerning the contents of this report should be directed to Virgil F. Puskarich, Executive Director of the Local Government Commission.

The Local Government Commission was created by the Act of 1935, May 29, P.L. 244 No. 102, as amended, as a continuing agency to provide research and advice to the General Assembly of the Commonwealth of Pennsylvania on matters affecting political subdivisions and municipal governments.

This report is the product of two years of deliberations and research by the House Resolution 167 Task Force appointed by the Local Government Commission in July 1997, pursuant to concurrent House Resolution 167 of 1997-98 Session of the Pennsylvania General Assembly. Invaluable assistance was provided by numerous persons representing the Legislature, the Pennsylvania courts, state department and agencies, municipal associations, and law enforcement organizations. This report is genuinely a product of the efforts of the entire membership of the Task Force since it truly represents the written work of the participants. The Local Government Commission appreciates the time and efforts expended by Task Force members during the past two years.

This study, as written, does not contain an attached Appendix due to the sheer volume of information submitted to the Task Force by various groups and the added expense that would be incurred in printing the Appendix as part of this product. Information cited in the footnotes extracted from the submitted reports may be downloaded from the Local Government Commission's public Internet Website - www.lgc.state.pa.us

ACKNOWLEDGMENTS

A report is never the product of its authors alone. This is especially true when the report is based, to a great extent, on data acquired from sources which are required to generate original research. Accordingly, the Local Government Commission extends its appreciation to those Task Force members and support staff who were of great assistance in providing information critical to the compilation of this report.

In particular, the Local Government Commission would like to commend the following individuals for their preparation of special research reports that were essential to the work of the Task Force:

Stephen Spangenberg, PA Commission on Crime and Delinquency
Dr. Rosemary Gido, Indiana University of PA
Major Wesley R. Waugh, PA State Police
Daryl W. Walker, Administrative Office of PA Courts
Annmarie Kaiser, PA District Attorney's Association
Ronald Stern, PA Department of Community & Economic Development
William Parkes, Governor's Budget Office
Warren Klunk, PA Department of Revenue
Anthony W. Salomone, PA Public Employee Retirement Commission

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE RESOLUTION

No. 167 Session of 1997

INTRODUCED BY ROSS, BARD, HERMAN, LESCOVITZ AND COY, MAY 8, 1997

REFERRED TO COMMITTEE ON RULES, MAY 8, 1997

A CONCURRENT RESOLUTION

1 Requiring creation of a task force to study the cost,
2 effectiveness and equity of alternative means of providing
3 law enforcement within Commonwealth municipalities.

4 WHEREAS, The Commonwealth of Pennsylvania has in excess of
5 2,000 municipalities; and

6 WHEREAS, There exists a great diversity among these
7 municipalities with regard to the many influences which impact
8 on the provision of local law enforcement needs, including
9 population density, rural vs. urban or suburban locale and tax
10 base; and

11 WHEREAS, Among Pennsylvania's municipalities there are those
12 which have and those which do not have a municipal police force;
13 and

14 WHEREAS, A variety of existing or potential options exist
15 which are or may be used to provide law enforcement and police
16 protection within Pennsylvania's various municipalities; and

17 WHEREAS, The need to promote equity, cost-effectiveness and
18 quality in the provision of law enforcement and police

1 protection within Pennsylvania's municipalities constitutes a
2 serious public policy issue; therefore be it

3 RESOLVED (the Senate concurring), That the General Assembly
4 empower the Local Government Commission to appoint the
5 membership and assemble a Local Law Enforcement Task Force to
6 conduct an investigation and prepare a report to the General
7 Assembly concerning the alternative means by which law
8 enforcement and police protection are being or may be provided
9 to municipalities; and be it further

10 RESOLVED, That, in addition to any members of the General
11 Assembly appointed to the task force by the Local Government
12 Commission, there shall be four other members of the General
13 Assembly appointed to the task force, one to be appointed by the
14 President pro tempore of the Senate, one by the Minority Leader
15 of the Senate, one by the Speaker of the House of
16 Representatives and one by the Minority Leader of the House of
17 Representatives; and be it further

18 RESOLVED, That the task force investigation and report
19 consider the respective cost, availability and efficiency of the
20 alternative means by which law enforcement and police protection
21 are being or may be provided to municipalities; and be it
22 further

23 RESOLVED, That, in furtherance of the task force
24 investigation and report, the Local Government Commission may
25 conduct hearings, take testimony and hire consultants, as
26 needed; and be it further

27 RESOLVED, That the task force investigation and report
28 utilize and incorporate, where appropriate and relative to its
29 inquiry, the findings and conclusions of existing reports and
30 studies prepared by other legislative, executive, governmental

1 or private agencies, organizations or persons; and be it further
2 RESOLVED, That it is the intent of the General Assembly, by
3 this resolution, that State agencies and offices, including, but
4 not limited to, the Pennsylvania State Police and the Attorney
5 General, counties, district attorneys, municipal corporations
6 and all municipal police forces, county sheriffs, constables,
7 all other local agencies and associations of local governments,
8 fully cooperate with the Local Government Commission during the
9 course of its investigation; and be it further

10 RESOLVED, That the Local Law Enforcement Task Force report
11 its findings to the General Assembly as soon as may be possible
12 as determined by the Local Government Commission.

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EXECUTIVE SUMMARY OF RECOMMENDATIONS

1. *Development of a uniform basic training program for criminal justice professionals.* The Task Force recommends that the General Assembly create a core basic training module to be used by all of the following categories of criminal justice professionals:

- municipal police
- deputy sheriffs
- constables
- state and county probation and parole officers
- campus police
- agents of the Bureau of Criminal Investigation and the Bureau of Narcotics Investigators within the Attorney General's Office
- Allegheny County park police
- other park police
- Capitol police
- park rangers/state forest officers within the Department of Conservation and Natural Resources
- county detectives
- municipal authority police
- police officers from the Delaware River Port Authority, Allegheny County Port Authority, Southeastern Pennsylvania Transportation Authority, Pittsburgh Housing Authority, and Philadelphia Housing Authority.

The Task Force further recommends that advanced training modules be established for each category of criminal justice professionals. The advanced training modules would be unique to each class of professionals. This training program would be established under a unified, expanded training commission, most likely the Municipal Police Officers' Education and Training Commission, with the name of the Commission amended to reflect its larger role. In addition, the Task Force discussed the existence of the federal Police Corps Program, administered by the United States Department of Justice, and recommends further review of the program and the feasibility of implementing the Police Corps in Pennsylvania.

2. *The Governor's Center for Local Government Services (Center) within the Department of Community and Economic Development (DCED) should become the agency to act as an advocate for municipal police at the state level.* The Center, with additional appropriation and staff, should be designated and empowered to assume a more significant role as a clearinghouse for information, as a provider of necessary police studies at an expanded level, including encouraging, where appropriate, police regionalization, and as a consultant for local police departments upon demand.

3. *A funding source for support of existing police departments should be created.* The Task Force recommends that a dedicated source of funding for municipal police should be established for the purchase of structures, equipment, and vehicles, such as the 2% loan program proposed under House Bill 541, Printer's Number 565, and Senate Bill 267, Printer's Number 268, of the 1999-2000 Legislative Session. These bills would authorize the Commonwealth to incur debt in the amount of \$20,000,000 for the purpose of providing loans to municipalities as follows: (1) for the purchase, maintenance, or repair of buildings, a loan of not less than \$5,000 nor more than \$200,000, and (2) for the purchase, maintenance, or repair of vehicles or equipment, a loan not less than \$5,000 nor more than \$100,000.

4. *Municipalities should be authorized, pursuant to their respective municipal codes, to levy a special dedicated tax for funding police services.* The amount of the real estate tax, not to exceed 10 mills, would be utilized to support existing police departments (regional or municipal), or to pay for contractual obligations that a municipality has incurred when purchasing police services from another municipality. The language would be similar to that currently found in the municipal codes for fire protection, ambulance and rescue services, street lighting, debt service, etc.

5. *Greater use of the Shared Municipal Services Program.* Section 301 of the Community and Economic Development Enhancement Act, Act 58 of 1996, authorizes DCED to provide grants to municipalities as incentives for undertaking intergovernmental cooperation efforts. In Fiscal Year (FY) 1999-2000, the General Assembly appropriated \$900,000 for this program. Eligible activities for this program have included: combined police records administration, shared personnel activities, joint ownership of equipment, shared data processing operations, joint sign making, Councils of Governments start-up funding, etc. Since FY 1994-95, 36 grants totaling \$381,800 have been awarded to police departments for various purposes under the Shared Municipal Services Program. The Task Force recommends that this program be retained, and that adequate funding be provided by the General Assembly, particularly as it applies to grants for local police activities.

6. *The General Assembly should consider the appointment of a select committee to deal with issues relating to police pensions including provisions concerning portability among the various police retirement systems, or that due consideration be given to creating a uniform pension system for police officers.* The Task Force discussed and considered creation of a uniform pension system and the police pension portability issue. Due to the complexity of this issue and concerns related to the transfer of service credits and pension assets, as well as the problems associated with the potential impact on state funding, it was decided that this matter would

best be explored as a single subject by a select committee reflecting expertise on pension issues. The Task Force further recommends that any examination of police pensions give special consideration to the burdens that may be placed upon municipalities with regard to this matter.

7. *Creation of a Municipal Police Fund to provide grants for municipalities which are considering providing police services.* The Task Force recommends that, upon conviction, a \$25 surcharge be imposed for each misdemeanor of the third degree and above and a \$50 surcharge be imposed for each felony. Monies generated from the surcharges will be deposited in a restricted account and administered by DCED to provide start-up costs or seed money for municipalities considering forming a police department, joining a regional police effort, or contracting for police services with a municipality(ies) for police protection. Grants administered by the Department could be used for various purposes, including salaries, buildings, equipment, weapons, etc.

8. *Fine monies for most Title 75 Pa.C.S. (Vehicle Code) offenses and delineated summary offenses associated with provisions of Title 42 Pa.C.S. (Judicial Code) §§3571 and 3573 should be redistributed to the entity issuing a citation.* The Task Force determined that, in terms of promoting fairness and equity, fine monies derived from State Police citations and municipal police citations should be retained for the benefit of those respective entities issuing the citation. Moreover, the Task Force did not contemplate or intend any impact on 42 Pa.C.S. §3733, which provides for the Judicial Computer System Augmentation Account. Under this recommendation, the following results would be obtained:

(a) The Commonwealth, under 42 Pa.C.S. §3571(b)(2), would retain \$13.30 million (FY 1998-99 dollars) from fines generated by the arrests made by the State Police for most Vehicle Code violations. Currently, this money is distributed to all municipalities in Pennsylvania based upon the liquid fuels allocation formula. According to information provided by the Administrative Office of Pennsylvania Courts, the Commonwealth would also receive an additional \$3.30 million (1998 dollars) from specific summary offense convictions delineated under 42 Pa.C.S. §3573(c) in those instances in which State Police action is involved. The Task Force recommends that these amounts be dedicated to the State Police to reimburse them for costs associated with providing police services to those municipalities without police departments.

(b) Municipalities now providing for local policing (through their own police department, regional police department, or by contracting) would receive a net of \$13.80 million now deposited into the state Motor License Fund under 42 Pa.C.S. §3571(b)(3) (i.e., \$21.02 million deposited into the Motor License Fund generated from local citations minus \$7.21 million transferred to the Judicial Computer System Augmentation Account in

accordance with 42 Pa.C.S. §3733). Also, municipalities will retain monies generated from fines for summary offenses under 42 Pa.C.S. §3573(c) involving local police action. This amounted to \$8.15 million in 1998.

(c) The Commonwealth would lose approximately \$5.06 million from monies now deposited in the Motor License Fund, most of which is derived from funds generated from municipal police action under §3571(b)(3).

(d) Municipalities, even those that provide for local policing, would no longer receive monies from State Police citations which currently are distributed automatically to all local governments under 42 Pa.C.S. §3571(b)(2). In addition, municipalities would no longer receive fines from State Police citations issued in those municipalities for specified summary offenses under 42 Pa.C.S. §3573(c). This amount, estimated to be \$3.30 million, will now be redirected to the State Police. Currently, municipalities, even those that do not provide for local policing, receive fines for summary offenses committed within their jurisdiction.

I. BACKGROUND

“REQUIRING CREATION OF A TASK FORCE TO STUDY THE COST, EFFECTIVENESS AND EQUITY OF ALTERNATIVE MEANS OF PROVIDING LAW ENFORCEMENT WITHIN COMMONWEALTH MUNICIPALITIES.”

--HOUSE RESOLUTION 167

On May 8, 1997, on behalf of the Local Government Commission (Commission), a bipartisan, bicameral legislative service agency, the five Members of the House of Representatives who sit on the Local Government Commission introduced into the House of Representatives a concurrent resolution, House Resolution (HR) 167, empowering the Commission to create a special Local Law Enforcement Task Force (Task Force) to conduct a police study. HR 167 was passed by a nearly unanimous vote of the House on May 13, 1997, and was adopted without dissent by the Senate on June 17, 1997.

The impetus behind HR 167 was Governor Ridge's suggestion, in his proposed budget for fiscal year (FY) 1997-98, that those municipalities with populations over 9,000 that do not have police departments or do not contract for police services pay for Pennsylvania State Police services they receive. An identical suggestion was included in the Governor's FY 1996-97 budget proposal. In neither case did the General Assembly concur with the Governor's request.

Arguably, additional incentives for HR 167 were three police studies performed during the 1995-96 Legislative Session. Those incentives can be found in: (1) the final report issued by the House Democratic Policy Committee's Task Force on Law Enforcement and Public Safety; (2) the report on police regionalization carried out by the Senate Republican Policy Committee's Policy Development and Research Office; and (3) *A Study of the Statutory Cap on the Pennsylvania State Police Complement*, conducted by the Legislative Budget and Finance Committee. In fact, the latter investigation included among its recommendations that “[t]he Governor's Office and the General Assembly should again consider the possibility of charging certain municipalities for services they receive from the PSP [Pennsylvania State Police].”

Furthermore, it can be maintained that another catalyst for HR 167 was a potential concurrent resolution which directed the Commission to provide staff and administrative resources to a special House committee that would conduct a police study. Independent of and concurrent with the Governor's proposal that those municipalities with a population of 9,000 or more that do not have a municipal police department pay for Pennsylvania State Police services, House Resolution 132 was introduced, which would appoint a select committee from the House of Representatives to conduct a systematic and comprehensive review of law enforcement resources and requirements for the purpose of enhancing public safety and submit a written report containing its findings and recommendations to the General Assembly by June 30, 1998. HR 132 also would instruct the Commission to provide sufficient staffing and other administrative support to assist the committee in performing its tasks.

However, prior to the introduction of HR 132, work had begun on a similar proposal in the form of a concurrent resolution on behalf of the Commission. A draft of the concurrent resolution was shown to the Members of the Commission at the monthly business meeting of the Commission on May 7, 1997. As mentioned heretofore, the Commission's concurrent resolution would direct the creation of a Task Force to study the cost, effectiveness, and equity of alternative means of providing law enforcement within Commonwealth municipalities. It was agreed at the meeting that a bipartisan study would be more beneficial. Accordingly, Commission Members unanimously agreed to introduce into the House of Representatives a concurrent resolution empowering the Local Government Commission to create a Task Force which would study the issues identified above. The Commission delegated to its chairman, Senator Robert D. Robbins, authority to appoint members of the Task Force, including a Member of the Commission representing each legislative caucus. The Members also agreed to amend the draft resolution to permit the President pro tempore of the Senate, the Senate Democratic Leader, the Speaker of the House of Representatives, and the House Democratic Leader to each appoint one additional legislative member to the Task Force.

The Task Force membership evolved over the ensuing two months. At the monthly Commission business meeting on July 9, 1997, the Task Force membership, comprising 30 representatives, was finalized.

Task Force Membership

Eight members of the General Assembly:

- 4 Local Government Commission Members (one from each caucus)
- 4 additional Legislators (one from each caucus)

One representative from each of the following entities or agencies:

- Pennsylvania State Police
- Pennsylvania Fraternal Order of Police
- Pennsylvania Chiefs of Police Association
- Sheriffs Association of the Commonwealth of Pennsylvania
- County Commissioners Association of Pennsylvania
- Pennsylvania Commission on Crime and Delinquency
- Pennsylvania State Constables Association
- Administrative Office of Pennsylvania Courts
- Office of Attorney General
- Department of Community and Economic Development
- Office of the Budget
- Legislative Reference Bureau
- Pennsylvania District Attorneys' Association
- Public Employee Retirement Commission
- Pennsylvania Board of Probation and Parole
- Pennsylvania Fish and Boat Commission
- Pennsylvania Game Commission
- Pennsylvania State Troopers Association

Pennsylvania State Association of Township Supervisors
Pennsylvania League of Cities and Municipalities
Pennsylvania State Association of Township Commissioners
Pennsylvania State Association of Boroughs

At the organizational meeting of the Commission's HR 167 Task Force, which was held on September 24, 1997, Senator Robbins summarized the purpose and goal of the Task Force as follows: To conduct an investigation and prepare a report to the General Assembly concerning the variety of existing or potential alternative means or options which are or may be used to promote equity, cost-effectiveness, and quality in the provision of law enforcement and police protection in Pennsylvania's municipalities, taking into consideration the respective cost, availability, and efficiency of the alternative means by which law enforcement and police protection are being or may be provided, while recognizing that in excess of 2,000 municipalities exist, some with and some without a municipal police force, which exhibit a great diversity with regard to the many influences impacting on the provision of local law enforcement needs, including population density, rural versus urban or suburban locale, and tax base.

At the aforesaid meeting, the fact-finding process began as certain Task Force members were requested to gather background information on the statutory authority, powers, duties, and training requirements for selected personnel that are believed to possess police powers. In addition, some Task Force members were asked to accumulate the costs associated with providing State Police protection for municipalities regardless of the existence of local police departments. This material enabled the Task Force to examine the capabilities of offering police protection from unconventional sources, such as constables, deputy sheriffs, enforcement officers in the employ of the Fish and Boat Commission as well as of the Game Commission, probation officers, etc.

It became apparent that the Task Force also desired to study the future needs of existing police departments in protecting local residents. Since the availability of this data was deemed likely unavailable by the Task Force, it was determined that the Commission should contact a reputable college or university to undertake a scientific study with supporting documentation as regards the need and costs in providing alternative methods for local police protection. In addition, empirical research conducted on the adequacy of local law enforcement could project future needs and expenditures of existing municipal police organizations. Task Force members agreed that the Criminology Department at Indiana University of Pennsylvania (IUP) should be contacted to perform the unbiased research. A request for a proposal (RFP) was submitted to IUP concerning the empirical portion of the Task Force report and, generally, assisting the Task Force in its research endeavors. A research proposal was subsequently submitted by IUP detailing research design and methodology.

Demographic Data on Municipal Police.

The Task Force requested that the Department of Community and Economic Development (DCED) construct a profile of municipal police departments in Pennsylvania based upon the latest demographics and available expenditure data. As of February 1998, 1,086 traditional municipal

police departments existed in Pennsylvania of which 982 municipalities employed at least one full-time officer. Two hundred and twenty-eight (228) municipalities employed part-time officers exclusively. A total of 1,211 municipal police departments were in existence on that date while 1,189 municipalities were patrolled by the Pennsylvania State Police.

Based upon 1996 municipal police expenditure reports, the latest statistics available, total police expenditures reported during that year totaled \$626,231,908, representing 1,432 out of 2,571 municipalities in the Commonwealth. According to DCED, this amount is an average of 22.86% of the police protection services as it relates to total municipal expenditures. This amount reflects not only municipalities that currently have their own police departments, but also others that may have some other arrangement to provide police services through contracting or regionalization. (NOTE: The 1996 Expenditure Report is available on the Internet website. It is dated Wednesday, October 22, 1997.) Data from the Report is compiled by population groupings of : 0-2,500; 2,501-5,000; 5,001-7,500; 7,501-10,000; 10,001-15,000; 15,001-25,000; 25,001-50,000; 50,001-100,000; and over 100,000. For each reporting municipality, the population, total police expenditure, police expenditures as a percentage of total expenditures, and police expenditures per capita are provided. Please note, however, that approximately 1,100 municipalities failed to file FY 1996 expenditure reports.

In relation to consolidated or regional police services, as of October 22, 1997, DCED reported the number of consolidated police departments to be 27, the total number of municipalities served by consolidated departments to be 76, the average number of municipalities served by consolidated police departments to be 2.7, the number of full-time officers in consolidated departments to be 268, the square mileage served by consolidated police departments to be 254,864 and the square mile average served by a consolidated department to be 781.8, the total cost of consolidated departments in 1997 to be \$20,007,714, the average cost of each department to be \$741,026, the average cost per officer in a consolidated department to be \$69,159, and the average per capita cost for areas served by a consolidated department to be \$78.50. (For further reference a 1998 chart delineating information relative to specific Consolidated Police Agencies in Pennsylvania is available on the Internet website. It is dated June 2, 1999.) During 1997, DCED reported that 220 municipalities were affected by police contracts with other municipal police departments.

II. EXAMINATION OF THE ISSUE OF CHARGING CERTAIN MUNICIPALITIES FOR STATE POLICE PROTECTION

In relation to the Governor's past budget proposals to charge municipalities with populations over 9,000 residents for State Police protection, the Task Force requested legal opinions on: (1) the impact of Article III, Section 31, of the Constitution of Pennsylvania, on an attempt by the General Assembly to require these municipalities to pay for State Police services, and (2) if such a charge is levied, whether a constitutional impediment exists when such a requirement would result in a municipality exceeding its statutory millage limit on real estate taxes. Both issues are discussed below.

The Impact of Article III, Section 31, on Charging for State Police Protection.¹

In analyzing the ramifications of Article III, Section 31, the issue at hand is summarized as follows:

What, if any, would be the impact (in terms of potential conflict) of the first sentence of Article III, Section 31, of the Constitution of Pennsylvania on an attempt by the General Assembly to require certain municipalities to pay for State Police services, if those municipalities do not have a municipal police force?

Article III, Section 31, provides as follows, with the pertinent first sentence underlined:

§31. *Delegation of certain powers*

The General Assembly shall not delegate to any special commission, private corporation or association, any power to make, supervise or interfere with any municipal improvement, money, property or effects, whether held in trust or otherwise, or to levy taxes or perform any municipal function whatever.

Section 31 continues:

Notwithstanding the foregoing limitation or any other provision of the Constitution, the General Assembly may enact laws which provide that the findings of panels or commissions, selected and acting in accordance with law for the adjustment or bargaining between policemen and firemen and their public employers shall be binding upon all parties and shall constitute a mandate to the head of the political subdivision which is the employer, or to the appropriate officer of the Commonwealth if the Commonwealth is the employer, with respect to matters which can be remedied by administrative action, and to the lawmaking body of such political subdivision or of the Commonwealth, with respect to matters which require legislative action, to take the action necessary to carry out such findings.

The answer to the question posed is answered in a clear and scholarly manner in the treatise *Pennsylvania Constitutional Law*, written by the Honorable Robert E. Woodside, a member of the Legislature for 10 years and a floor leader there, Attorney General of the Commonwealth, and a judge of the Dauphin County Court of Common Pleas and the Pennsylvania Superior Court. He taught Pennsylvania constitutional law at the Dickinson School of Law for more than 15 years.

At page 340, Judge Woodside says that Section 31 is intended to eliminate the use of truly private, appointed agencies to provide some municipal function while at the same time requiring the State to pay for it. *Schofield v. Donato*, 429 Pa. 435, 240 A.2d 541 (1968). The divorce of the power

¹ Authored by JoAnn Mitchell, Esq., Legislative Reference Bureau.

to incur debts from the obligation to provide for their payment was the “principal mischief” that the framers of Section 31 were seeking to prevent. *Trantner v. Allegheny County Authority*, 316 Pa. 65, 173 A. 289 (1934).

The theory underlying this prevention of delegation, Judge Woodside continues, was to preserve the separation of powers. As explained in *Wilson v. Philadelphia School District*, 328 Pa. 225, 228, 195 A. 90, 93 (1937), “It is on the preservation of the lines which separate the cardinal branches of the government, that the liberties of the citizen depend . . . One cardinal principle stands out, that any fundamental or basic power necessary to government cannot be delegated.”

Additionally, Section 31 is designed to prevent taxing power being given to persons not elected and not responsible to the public. No unconstitutional delegation occurs, however, when the Legislature fixes the maximum rate of tax that may be charged by the appointed board. *Minsinger v. Ran*, 236 Pa. 327, 84 A. 902 (1912); *Moore v. Pittsburgh School District*, 338 Pa. 466, 13 A.2d 29 (1940).

In the *Wilson v. Philadelphia School District* case, *supra*, the court said, again, that “One cardinal principle stands out, that any fundamental or basic power necessary to government cannot be delegated.” Under his discussion of the police powers of government, Judge Woodside defines police power as a fundamental or basic power necessary to government. The “police power,” he says (page 235) is the power inherent in a sovereign to enact laws, within constitutional limits, to promote the order, safety, health, morals, and general welfare of society.

Enacting such laws is a legislative power vested in the General Assembly under Article II, Section 1, of the Constitution of Pennsylvania. This power is limited only by the restraints contained in the Federal and State Constitutions, including the prohibitions under the Supremacy Clause of the Federal Constitution which provides that state constitutions and laws in conflict with treaties and acts of Congress are unconstitutional.

The scope of the police power is necessarily very broad, transcending all other powers of government. But this exercise is not unlimited. “By a host of authorities, Federal and State alike, it has been held that a law which purports to be an exercise of the police power must not be unreasonable, unduly oppressive, or patently beyond the necessities of the case, and the means which it employs must have a real and substantial relation to the objects sought to be attained.”-- *Commonwealth ex rel. Woodside v. Sun Ray Drug Co.*, 383 Pa. 1, 10-11, 116 A.2d 833 (1955).

We must presume that the legislative body, whether of the State or of a municipality, acts with the purpose of serving the public welfare and that all intendments are in favor of its actions. But the power to thus regulate does not extend to an arbitrary, unnecessary, or unreasonable intermeddling with the private ownership of property, even though it is labeled for the preservation of health, safety and general welfare. The police power must be exercised with scrupulous regard or constitutionally guaranteed private rights. It can be properly exercised only in the true public welfare. If exercised otherwise, the regulation will be stricken down as a perversion of the sovereign power. (Woodside, pages 236-237.)

To meet the test of the courts, "the law must not be (1) unreasonable; (2) unduly oppressive; or (3) patently beyond the necessities of the case; and (4) the means employed must have a real and substantial relation to the objects sought to be attained."
(Woodside, pages 237-238.)

Thus, a law requiring municipalities to pay for the services of the Pennsylvania State Police which perform services locally over and above its regular duties and those additional duties are performed at the behest of the local municipality, if drafted with care and due regard for the Constitution of Pennsylvania, should meet the test set forth in the preceding paragraph and be, therefore, constitutional.²

Constitutional Considerations When a Municipality May Exceed Its Statutory Millage Limit.³

The second issue could be framed as follows:

²Although speculative, the following argument may be raised by affected municipalities:

An historical perspective of Article III, Section 31, is set forth in the Pennsylvania Supreme Court case of *Tranter v. Allegheny County Authority* at 316 Pa. 65, 77-80 (1934). (At the time *Tranter* was decided, Article III, Section 31, was actually numbered as Article III, Section 20.)

At page 78, the Court said, "By 1873, when the convention was engaged in preparing the constitution, public opinion had recognized the economic mistake of taking from municipalities certain powers and conferring them on independent commissions, while, at the same time, requiring the municipality to pay the bills incurred by the commission without any restraining voice on the expenditure. The separation of the power to incur debts from the duty of providing for their payment by taxation, produced the principal mischief complained of and which it was sought to prevent." The plaintiff argued that the Allegheny County Authority was a special commission, private corporation or association and therefore under a constitutional prohibition from imposing expenses onto the taxpayer. The Court, however, disagreed with this proposition.

Whether the Court would call the Pennsylvania State Police a private corporation or a public one is uncertain. It is truly a public entity when it operates on behalf of the State. If it is hired by a municipality to provide that municipality's police protection, the contractual relationship might change the State Police into a private entity. If the Court takes that position, then the municipality is the only party to the contract which is answerable to the electorate and which has the power to tax. By imposing upon the municipality, under its current plan, a cost-per-resident assessment for its services, the State Police is, arguably, imposing the exact amount by which the municipality will have to raise the local taxes in order to pay the State Police. If, on the other hand, the State Police determines how much one police officer's services will cost and suggests how many officers would be necessary, the municipality still makes the final determination of how many officers it can afford to hire under the contract; and thus, the municipality maintains its ability to be accountable to the electorate.

³Authored by Patrick F. KIELTY, Esq., Local Government Commission, June 2, 1998.

If the proposed cost-per-resident assessment upon municipalities for State Police services were to require those municipalities to exceed their statutory millage limit,⁴ would this violate the constitutional standard⁵ against the unreasonable or unduly oppressive exercise of the police power?

As a preliminary matter, the nature of the potential objection⁶ to the proposed action by the Commonwealth will be considered. There have been various formulations of the elements which constitute the test to determine whether an exercise of the police power is constitutional. One such statement of criteria involves both the effect of using the police power and the means used to obtain the desired objective. Under this test, the effect of exercising the police power must not be: (1) unreasonable; (2) unduly oppressive; or (3) patently beyond the necessities of the case. In addition, the means employed must have a real and substantial relation to the objects sought to be attained.⁷

A similar formulation of this defense has been made by the Commonwealth Court⁸ as follows: “[Pennsylvania’s]...Supreme Court has adopted a standard first enunciated by the United States Supreme Court in...(1894). ... That standard sets forth a three-prong test that requires the police power to be exercised reasonably:

1. it must be in the interest of the public that it requires such an interference;

⁴This analysis in terms of municipal statutory millage limits will refer to townships of the second class inasmuch as the Governor’s budget proposal would have impacted exclusively on 23 second class townships. It is assumed that this 14 mill limit refers to the millage cap on real estate taxes generally for townships of the second class. In this regard, it is noted that this limit can be increased by 5 mills by court order. Also, the payment for State Police services might not result in a township exceeding its 14 mill limit, if there are other taxes, such as Act 511 taxes, from which the needed revenue might be derived. Additionally, a township may be able to utilize certain special purpose real estate taxes which are supplementary to the general real estate levy, thereby freeing funds for payment of police services. Finally, revenue currently used for other municipal purposes might be redeployed in order to pay for the State Police services.

⁵The inquiry from Representative Tangretti, which is the basis of this opinion, specifically references *Com. ex rel. Woodside v. Sun Ray Drug Co.*, 383 Pa. 1, 116 A.2d 833 (1955), a case dealing with whether a law regulating the quality of ice cream can be applied to the regulation of iced milk products. The court therein set forth a well-recognized standard for determining the validity of the exercise of such regulatory police power: “[A] law which purports to be an exercise of the police power must not be unreasonable, unduly oppressive or patently beyond the necessities of the case, and the means which it employs must have a real and substantial relation to the objects sought to be attained.” 116 A.2d 838.

⁶The constitutional “defense” to the exercise of police power as set forth in *Sun Ray Drug Co.* See note 5, *supra*.

⁷*Sun Ray Drug, supra*, 116 A.2d at 838.

⁸*North Cambria Fuel Co. v. Department of Environmental Resources*, 153 Pa.Cmwlt. 489, 621 A.2d 1155, 1161 (1993).

2. the means are reasonably necessary to accomplish the goal; and
3. the means are not unduly oppressive upon individuals.”

Both of the foregoing formulations are examples of the standard analysis⁹ to test constitutionality on the basis of what is referred to as “substantive due process.”¹⁰ Pennsylvania courts have stated that “[w]hen an attack upon a statute is made on due process grounds, the following analysis is required:

[A] law which purports to be an exercise of the police power must not be unreasonable, unduly oppressive or patently beyond the necessities of the case, and the means which it employs must have a real and substantial relation to the objects sought to be attained.”¹¹

Another variation of this constitutional test provides: “The standard of review for a substantive due process challenge is whether the statute at issue has a reasonable basis, ‘whether it was irrational for the law to have been passed at all,...that there is no relationship between the statute and a legitimate state interest.’ ...A law that purports to be an exercise of police power must not be arbitrary, unreasonable or patently beyond the necessities of the case, and the means which it employs must have

⁹By way of comparison, the court, in *Klein v. Com., State Employees’ Retirement System*, 521 Pa. 330, 555 A.2d 1216, 1224 (1989), quoting from Mr. Justice Flaherty’s majority opinion in *James v. Southeastern Pennsylvania Transportation Authority*, 505 Pa. 137, 477 A.2d 1302 (1984), set forth an analytical framework for reviewing government actions which affect disparate classes.

... [T]here are three different types of classifications calling for three different standards of judicial review. The first type classifications implicating neither suspect classes nor fundamental rights--will be sustained if it meets a "rational basis" test.... In the second type of cases, where a suspect classification has been made or a fundamental right has been burdened, another standard of review is applied: that of strict scrutiny.... Finally, in the third type of cases, if "important," though not fundamental rights are affected by the classification, or if "sensitive" classifications have been made, the United States Supreme Court has employed what may be called an intermediate standard of review, or a heightened standard of review.... There are, in summary, three standards of review applicable to an equal protection case, and the applicability of one rather than another will depend upon the type of right which is affected by the classification.

(Citations omitted).

¹⁰See “The Development of Substantive Due Process” (*Findlaw*, Internet Legal Resources, Copyright 1994-1998).

¹¹*Edwards v. Com., State Dental Council and Examining Bd.*, 71 Pa.Cmwlth. 139, 454 A.2d 218, 219 (1983) (emphasis supplied), citing *Gambone v. Commonwealth*, 375 Pa. 547, 551, 101 A.2d 634, 637 (1954) as quoted, with approval, in *McCoy v. State Board of Medical Education and Licensure*, 37 Pa.Cmwlth. 530, 391 A.2d 723 (1978).

a real and substantial relation to the object sought to be attained. ... It is the prerogative of the legislature, and not of the courts, to resolve matters of public policy. ... It is the prerogative of the courts to decide whether the legislature has overstepped its power by violating constitutional restraints....”¹²

Similarly, it has been stated: “ ... [T]he rational basis test is the proper test to be applied to ... due process and equal protection claims.... The focus of the rational basis test for substantive due process is whether it was irrational for the law to have been passed at all, while the focus for equal protection is whether the law irrationally distinguishes between similarly situated classes.... To prove that a statute is irrational and, therefore unconstitutional, the challenger must show for substantive due process purposes that there is no relationship between the statute and a legitimate state interest ... and for equal protection purposes, that the different treatment of the groups is unrelated to a legitimate state interest.”¹³

Given the preceding background regarding the constitutional, Fourteenth Amendment, substantive due process objection to an exercise of the police power, the question that remains can be posed in the alternative:

- (1) whether a decision by the Commonwealth to require payment or reimbursement by a class of municipalities¹⁴ for certain State Police services would constitute an exercise of the police power subject to judicial scrutiny, if the result would be to require municipalities to pay the Commonwealth more money than could be raised by utilizing the current maximum millage generally applicable to real estate taxes,¹⁵

or

- (2) whether a contrary argument would prevail, that such a decision is an exercise of administrative or legislative discretion regarding the method of funding the State Police and not an exercise of the police power which violates the standards of substantive due process.

The pay-for-service proposal does not necessarily fall within the common understanding of what constitutes an exercise of the police power subject to the limitations of substantive due process. The classic exercise of police power consists of governmental interference with transactions and matters involving private parties.¹⁶ In any event, a determination that the proposal is facially unconstitutional

¹²*Dranzo v. Winterhalter*, 395 Pa.Super. 578, 577 A.2d 1349, 1355 (1990) (Citations omitted).

¹³*Worley v. Pennsylvania Public School Employes' Retirement Bd.*, 689 A.2d 334, 339 (Pa. Cmwlth. 1997) (Citations omitted.).

¹⁴Municipal corporations over a fixed population that have no municipal police force.

¹⁵See note 4, *supra*.

¹⁶"The term 'police power' connotes the time-tested conceptional limit of public

as violating substantive due process would require two findings: that the Commonwealth has no legitimate interest in establishing the means of paying for State Police services within municipalities; and that the proposal's effect on individuals is unreasonable and unduly burdensome.¹⁷ There is little doubt that the Commonwealth has a legitimate interest in providing for the payment of State Police services. Moreover, in the absence of the proposal being implemented, its actual impact on individuals cannot be conclusively demonstrated to be unreasonable and unduly burdensome. Therefore, the proposal cannot be said to be unconstitutional on its face.

The fact that the proposed requirement for municipal payment for State Police services makes no direct demand on individuals, but rather establishes a municipal obligation, is of prime importance. Thus, the analysis of the proposal must be in the context of a state's power over its municipalities. "The traditional conception of state-municipal legal relations was that a municipality ...[is] merely a subordinate creature or instrumentality of the sovereign state. The powers of the state legislature over a municipality ... [are] considered to be, except for constitutional limitations, plenary or absolute."¹⁸

It is a basic proposition that the "...authority of the Legislature over all ... civil, political, or governmental powers [of municipal corporations] is, in the nature of things, supreme, save as limited by the Federal Constitution or that of the Commonwealth."¹⁹ Yet, even this proposition must be qualified and explained. Thus, it has been reasoned: "The problem with this proposition [i.e., that the power of a state over its municipalities is limited by the constitution] ... is that it is contrary to and thus nullified by a principle established by the Supreme Court of the United States: that a municipal corporation, being a creature of the state, cannot invoke federal constitutional protections against legislative acts of its sovereign, the state."²⁰

encroachment upon private interests. Except for the substitution of the familiar standard of 'reasonableness,' this Court has generally refrained from announcing any specific criteria. The classic statement of the rule ... is still valid today: ... [I]t must appear, first, that the interests of the public ... require [government] interference; and, second, that the means are reasonably necessary for the accomplishment of the purpose, and not unduly oppressive upon individuals. Even this rule is not applied with strict precision, for this Court has often said that 'debatable questions as to reasonableness are not for the courts but for the legislature'" *Nollan v. California Coastal Com'n*, 107 S.Ct. 3141, 3164, n.1 (1987). (Citations omitted; emphasis supplied.)

¹⁷Ordinarily, to prevail on a facial challenge, plaintiffs would have to prove that no set of circumstances exists under which the law could be applied constitutionally. See *United States v. Salerno*, 481 U.S. 739, 745, 107 S.Ct. 2095, 2100, 95 L.Ed.2d 697 (1987).

¹⁸*Philadelphia Facilities Management Corp. v. Biester*, 60 Pa.Cmwlth. 366, 431 A.2d 1123, 1133 (1981), citing, among others, *Shirk v. City of Lancaster*, 313 Pa. 158, 169 A. 557 (1933).

¹⁹*Shirk v. City of Lancaster*, 169 A. at 559.

²⁰*Philadelphia Facilities Management Corp.*, 431 A.2d at 1134-35 (emphasis supplied), citing *Williams v. Baltimore*, 289 U.S. 36, 53 S.Ct. 431, (1933); *Trenton v. New Jersey*, 262 U.S. 182, 43 S.Ct. 534, (1923); *Newark v. New Jersey*, 262 U.S. 192, 43 S.Ct. 539, 67 L.Ed. 943 (1923); *Hunter v. Pittsburgh*, 207 U.S. 161, 28 S.Ct. 40, (1907). Accord, *Department of Environmental Resources v. Westmoreland-Fayette Municipal Sewage Authority*, 18 Pa.Cmwlth.

Admittedly, two competing ideas seem to be at odds. On the one hand, there may be constitutional limitations on a state's power over its municipalities. Yet, on the other hand, municipalities have no right to raise constitutional protections against the state. These concepts, however, are not irreconcilable. The seeming dichotomy may be understood as follows:

The authority of a state is supreme over its municipalities except with regard to those limitations on legislative or state power that are specifically designated in the Federal or state constitutions. Thus, there may exist a specific prohibition or limitation on the exercise of a particular power.²¹ The Constitution of Pennsylvania, for example, does contain specific limitations²² upon the residual power of the General Assembly.²³ Thus, Pennsylvania's constitution could have contained a provision specifically limiting the power of the state to require municipal reimbursement for police services provided by the state--but it does not. In the absence of a such a designated limitation, however, a municipality may not avail itself of the more generic, fundamental constitutional safeguards of substantive due process which are afforded individuals²⁴ in their relationship with government.

Specified limitations on legislative power, such as the prohibition against passing a "local" or "special" law,²⁵ are not, however, the equivalent of the broad, constitutional protections of

555, 336 A.2d 704 (1975); *Department of Environmental Resources v. Borough of Carlisle*, 16 Pa.Cmwlth. 341, 330 A.2d 293 (1974); *Commonwealth v. Shippensburg Borough*, 2 Pa.D. & C.3d 417 (1977).

²¹In considering the specific constitutional limitations on the Commonwealth's power vis-a-vis municipalities, it is to be noted that one purpose of the Pennsylvania Constitution is to "...set forth the duties, powers and limitations of the agencies and officers created or authorized [therein]..." Woodside, *Pennsylvania Constitutional Law* (see footnote 6, *supra*), at 2 (Original in Capitals) (Emphasis supplied). "[Another]...purpose of a state constitution [generally] is to prescribe the manner in which the state is to exercise its inherent powers. ...[Such] provisions are technically limitations on the exercise of power rather than complete prohibitions.... [Also among]...the primary functions of a state constitution is to establish the structure of state and local government. ...[T]hese...provisions can be viewed as allocating power and limiting the right of the state to interfere in local affairs." Marks and Cooper, *State Constitutional Law*, at 3 - 6 (West 1988) (Emphasis supplied).

²²See, for example, Constitution of Pennsylvania, Article III, Sections 28, 29, 30, 31, and 32.

²³In Pennsylvania, the legislative authority is absolute except where expressly limited. It has long been recognized as fundamental that "...the Constitution allows to the Legislature every power which it does not positively prohibit," *Norris v. Clymer*, 2 Pa. 277, 285 (1845), and that the Legislature may do whatever it is not forbidden to do by the federal or state Constitution. *Luzerne County v. Morgan*, 263 Pa. 458, 107 A. 17 (1919).

²⁴Business corporations also are granted these protections as they relate to governmental interference with the corporations' private property and commercial activities.

²⁵Constitution of Pennsylvania, Article III, Section 32.

procedural and substantive due process and equal protection.²⁶ With regard to these broad, general protections, municipal corporations are viewed as having no standing “to invoke the provisions of the Fourteenth Amendment in opposition to the will of their creator,” the state.²⁷

From the foregoing, it may be concluded that the state has complete power to regulate its municipalities except as specifically limited in the constitution, and that municipalities, as creatures of the state, are denied the right to raise the fundamental defenses, such as due process and equal protection, against the state.

A municipal corporation cannot raise constitutional protections against the state, but individual citizens of the municipal corporation may. While the state has absolute, plenary power over its municipalities, this is not the case with regard to individuals, and “[t]he state may not employ its power to establish, destroy or reorganize its political subdivisions to camouflage a strategy designed to deprive certain of the citizenry of the subdivisions of their individual constitutional rights.”²⁸ Nevertheless, even where the action of the state is not directed at municipalities but rather constitutes direct governmental interference with individuals, the judiciary is often reluctant to substitute its judgment for that of the Legislature.

The issue being addressed herein asks whether it is constitutional to effectively require municipalities to raise real estate taxes above currently authorized limits in order to meet the expense of paying for State Police services. Some might argue that this requirement on municipalities is the equivalent of a tax levy on individuals. As such, they would further argue that it should be overturned as being too burdensome. Yet, the judiciary has refused requests to overturn otherwise bona fide state action in the field of taxation on the grounds that it will be burdensome and unreasonable.²⁹ The United

²⁶“All persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.” United States Constitution, Fourteenth Amendment, Section 1 (Emphasis supplied.) Also, Article I, Section 26 of the Pennsylvania Constitution provides: “Neither the Commonwealth nor any political subdivision thereof shall deny to any person the enjoyment of any civil right, nor discriminate against any person in the exercise of any civil right.” (Emphasis supplied.)

²⁷*City of Pawhuska v. Pawhuska Oil Co.*, 250 U.S. 394 (1919); *City of Trenton v. New Jersey*, 262 U.S. 182 (1923); *Williams v. Mayor of Baltimore*, 289 U.S. 36 (1933). But see *Madison School Dist. v. WERC*, 429 U.S. 167, 175 n.7 (1976) (reserving question whether municipal corporation as an employer has a First Amendment right that may be asserted against the State).

²⁸*Com. Dept. of Environmental Resources v. Westmoreland-Fayette Municipal Sewage Authority*, 18 Pa.Cmwth. 555, 336 A.2d 704, 706 (1975), citing *Gomillion v. Lightfoot*, 364 U.S. 339, 81 S.Ct. 125, 5 L.Ed.2d 110 (1960).

²⁹*City of Pittsburgh v. Alco Parking Corp.*, 94 S.Ct. 2291 (1974), a United States Supreme Court case originating in Pennsylvania.

States Supreme Court commented on a state court holding "... that a bona fide tax, if sufficiently burdensome, could be held invalid under the Fourteenth Amendment."³⁰ It disapproved of the state court's reasoning, noting that "[t]his approach is contrary to the cases ..., particularly to the oft-repeated principle that the judiciary should not infer a legislative attempt to exercise a forbidden power in the form of a seeming tax from the fact, alone, that the tax appears excessive or even so high as to threaten the existence of an occupation or business. [Citations omitted.]"³¹

The United States Supreme Court further commented that "[t]he claim that a particular tax is so unreasonably high and unduly burdensome as to deny due process is both familiar and recurring, but the Court has consistently refused either to undertake the task of passing on the 'reasonableness' of a tax that otherwise is within the power of Congress or of state legislative authorities...."³² "The clear teaching of prior cases is that [separating those taxes that are too burdensome from those that are not] ... is not a task that the Due Process Clause demands of or permits to the judiciary."³³

As the foregoing discussion indicates, one might argue that requiring certain municipalities to pay for State Police service may result in the need for excessively burdensome taxes on individuals in some or all of those municipalities. Thus, it also might be contended that this requirement is something more than the Commonwealth's exercise of its plenary power over its municipalities. Nevertheless, even if the requirement for municipal payment of State Police services were viewed as a direct tax on individuals, courts would refrain from passing on the "reasonableness" of the tax, in that such a determination is within the purview of the legislative, not the judicial, branch of government.

As previously mentioned, the issue presented implicitly makes the following assumptions:

- (1) that the municipalities [townships] required to pay for State Police services have no other revenue sources available except the 14 mill general real estate tax levy;
- (2) that other expenditures could not be reduced; and
- (3) that real estate taxes at the legal limit would raise insufficient revenue to allow them to make the required payment.³⁴

Presumably, under the forgoing assumptions, municipalities would find themselves either "in debt" to the Commonwealth or being denied services by the State Police. One might speculate as to whether the Commonwealth would permit either of these conditions to exist or continue without taking remedial action. Nevertheless, a court would refuse or, at best, be hesitant to prevent the Commonwealth from imposing a municipal pay-for-service requirement by superimposing its judgment to circumvent the Commonwealth's plenary power over its municipalities.

³⁰94 S.Ct. at 2295.

³¹*Id.*

³²94 S.Ct. at 2294.

³³94 S.Ct. at 2296.

³⁴See note 4, *supra*.

The pay-for-service proposal is not a direct charge or tax on individuals subject to the substantive-due-process defense, and it is individuals, not municipalities, who may raise constitutional protections against the Commonwealth.³⁵ The proposal comes within the broad power of control and regulation that the Commonwealth possesses with regard to its municipalities.³⁶

Assuming that the substantive-due-process defense³⁷ conceivably could be applied to invalidate the pay-for-service proposal as it indirectly applies to individual taxpayers on the basis that it is a subterfuge to pass through to individuals an unreasonably burdensome tax, courts would refrain from overturning a tax because such a determination is a legislative rather than a judicial prerogative.³⁸ In any event, action or interference by a court would occur only after the proposal was implemented; any invalidation of the pay-for-service requirement would result from a finding that the proposal was unconstitutional as applied, not on its face.³⁹

Without a clear demonstration of its effect on individuals, the Commonwealth's imposition of a pay-for-service requirement on municipalities for providing State Police services would not justify the judiciary interfering with the prerogative of the Commonwealth to exercise plenary authority over its municipalities.

The Commonwealth has plenary power over municipalities and, therefore, would be entitled to impose a pay-for-service requirement on municipalities for State Police services. This conclusion is not altered by the following assumptions:

- (1) that the municipalities [townships] required to pay for State Police services would have no other revenue sources available except the 14 mill general purpose real estate tax levy;
- (2) that existing municipal expenditures could not be reduced; and
- (3) that real estate taxes at the legal limit would raise insufficient revenue to allow the affected municipalities to make the required payment.

Conclusion

The proposed pay-for-service requirement is not a direct charge or tax on individuals and it is not subject to a substantive-due-process defense. This proposed requirement comes within the broad power to control and regulate municipalities possessed by the Commonwealth. Municipalities are subject to the Commonwealth as to what they can do and how they can do it. Moreover, municipalities

³⁵See note 20, *supra*.

³⁶See note 18, *supra*.

³⁷See notes 11, 12, and 13, *supra*.

³⁸See note 31, *supra*.

³⁹See note 17, *supra*.

have only those powers granted to them by the Commonwealth. More importantly, municipalities, as such, may not raise constitutional protections against the Commonwealth.

The protection of substantive due process (currently denied to municipalities) conceivably could be applied to invalidate the pay-for-service scheme as it applies to individual taxpayers. Generally, however, courts will not overturn a tax because it appears excessive. Determining whether an otherwise valid tax is unreasonably burdensome is considered to be a legislative rather than a judicial prerogative. Nevertheless, one might speculate that a court would act if it found the effect of the pay-for-service requirement to be the equivalent of a subterfuge to pass through to individuals an unreasonably burdensome tax. This kind of action or interference by a court likely would occur only after the scheme was implemented. Any invalidation of the pay-for-services proposal would result from a finding that the proposal was unconstitutional as applied, not on its face.

It is within the prerogative of the Commonwealth to exercise plenary authority over its municipalities. This plenary authority includes the right to impose on municipalities a pay-for-service requirement for State Police services. The exercise of this prerogative would not justify interference by the judiciary without a clear demonstration of its effect on individuals.

Costs Incurred by the Pennsylvania State Police for Municipal Police Coverage.⁴⁰

On September 24, 1997, the Task Force requested that the State Police and the Governor's Budget Office jointly provide documentation on State Police costs of providing local police services and the basis for potential legislation that would establish a per capita charge on those localities that depend on the State Police for local police services. In a letter dated December 10, 1997, Robert A. Bittenbender, Secretary of the Budget, and Colonel Paul J. Evanko, Commissioner of the Pennsylvania State Police, offered the following comment on the Task Force's request:

Various Task Force Members raised serious questions concerning the validity of the \$468.09 cost figure, which was defined as the average total cost per incident, including overhead, for a State Police response in a municipality. The Members subsequently requested additional documentation on the cost of such service and the number of incidents handled by the State Police in 1996.

In drafting the legislative proposal as a component of the 1997-98 Executive Budget, the purpose was to induce localities that use Commonwealth resources for local police protection to begin using their own resources. Across the Commonwealth, 90% of localities with populations over 9,000 use their own tax dollars for local protection, and only 23 depend exclusively upon Commonwealth taxpayers. The central issue is one of equity--the costs of local police protection should be paid by local taxpayers. It is not equitable for other local governments to bear the cost of larger municipalities that elect not to fund local law enforcement.

In framing the parameters of the legislation, the Office of the Budget (OB) and the State Police (PSP) reviewed the components of cost in the operation of police forces. Incident response is one

⁴⁰Prepared by the Office of the Budget and the Pennsylvania State Police, December 10, 1997.

component of cost, but does not define the total cost of providing local protection. In addition, individual incidents vary widely in their complexity and the amount of time they consume. Therefore, comparisons based on a cost per incident are unrealistic. Charging localities on a "per incident" basis was rejected by OB and PSP as not only unworkable but inequitable because it would allow localities to evade the substantial fixed costs of police services.

A per capita assessment is the only approach, which is both equitable and workable. In determining the per capita cost to be charged to a locality, OB and PSP reviewed reports on police costs and regional policing prepared by the former Department of Community Affairs. The purpose was to determine an accurate and equitable cost for the local police protection afforded to these 23 communities. However, the cost must not inadvertently create an incentive to use the State Police rather than move the locality to provide its own police department or reach an arrangement for regional policing.

PSP has calculated the total cost per incident (including overhead) for a response in [a] locality to be \$468.09. However, the department is cognizant that this measure does not recognize the tremendous variation in time, complexity and resource requirements between incidents. It is also dependent upon the number of incidents, which occur in any given year. Therefore, the more meaningful measure, for the purposes of this discussion, is a per capita assessment of the costs of providing local police services to the 23 primary localities.

OB and PSP determined that assessing a charge of \$102 per resident for those localities of 9,000 population or more was the most equitable approach. The level of the assessment was based upon an average trooper salary and benefit cost of approximately \$28 per hour (1995-96), and an average amount of time spent on enforcement duties in these 23 localities of 3.69 hours per resident per annum. The threshold of 9,000 population was selected because a locality of this size clearly has the resources to maintain a full-time local police force. Complete data concerning all municipalities is available on the Internet website. See Summary and Geographical Representation of Cost of Services per Population Range and Listing of Non-Primary Jurisdictions, Populations, and Number of Incidents Handled by Pennsylvania State Police in 1996, both contained in a report with a cover letter from Robert A. Bittenbender, Secretary of the Budget, and Colonel Paul Evanko, Commissioner of the Pennsylvania State Police, to Virgil F. Puskarich, Executive Director of the Local Government Commission, dated December 10, 1997.

The Summary and Geographical Representation of Cost of Services in Population Range also contains the names of all municipalities within Pennsylvania along with the corresponding number of incidents for 1996, municipal population and the estimated cost of services incurred by PSP for that locality based upon the average cost figure. Information in the December 10, 1997, correspondence also contains the listing of those municipalities considered non-primary jurisdiction, which have their own full-time police departments. The listing contains the population and incidents in 1996 within the locality.

Limitations of the \$468.09 Cost Figure.⁴¹

In response to the request, the State Police on January 21, 1998, issued a revised report which discussed the limitations of the \$468.09 cost figure and recalculated State Police costs on the State Trooper Allocation Formula (STAF).

The original data provided in conjunction with correspondence dated December 10, 1997, indicated an average cost of \$468.09 per incident for State Police responses. This monetary figure was an approximation based upon the best available computations within the State Police. The cost was for primary police services and did not include the costs for specialty services such as lab analysis, aviation, vehicles, facilities, etc. This figure was based upon all incidents handled by the State Police in both primary and non-primary jurisdictions.

It was recognized that the data collection processes currently utilized by the Pennsylvania State Police do not facilitate precise reporting of the specific data requested by the HR 167 Task Force; therefore, a great amount of manual data extraction has been required. It is not practicable to assign costs per occurrence as the exact amount of time expended by members working on specific incidents is unknown. Currently, an incident number is assigned to every incident brought to the attention of the State Police. This practice becomes problematic when attempts are made to measure the amount of time expended in the completion of major investigations. The Department's Automated Incident Memo System (AIMS) captures the precise amount of time which the primary responding officer devotes to the initial investigations such as homicides, Special Emergency Response Team (SERT) deployments, and aviation services, to name just a few instances. In the case of a homicide investigation, there could be dozens of members involved and yet only one incident number is assigned. For every additional officer that responds, there is also an increase in costs for equipment utilized. Finally, if any of the State Police operational Bureaus, such as the Bureau of Liquor Control Enforcement, Bureau of Drug Law Enforcement, or Bureau of Criminal Investigation handle an incident in the field and do not request assistance from the county Troop, the incident is not part of the cost analysis. The incident totals utilized represent county Troops' activities only⁴² and were for the calendar year 1996. In addition, these costs were for primary police services only and do not include costs of vehicles or facilities.

The cost figure of \$468.09 was derived from the total operating budgets for the fifteen county Troops. The computations were based upon the projected operating budget for the 1998-99 fiscal year. The operating cost for the county Troops was divided by the total number of incidents for 1996⁴³, to provide a cost per incident. These numbers were used to provide the most accurate cost assessment

⁴¹Prepared by the Pennsylvania State Police.

⁴²The fifteen county Troops are Troops A through R with the letters I, O, and Q not used. These Troops provide primary full-service police coverage to Pennsylvania's municipalities which do not have local police protection. Troop S, consolidated into adjacent county Troops during 1997, was dedicated to patrol of the interstate highway system. Troop T is dedicated to the Pennsylvania Turnpike Commission.

⁴³Tabulation of incident totals for 1997 is not yet complete.

possible using this method. The projected cost which was submitted for the 1998-99 budget proposal is the exact cost incurred for the fiscal year 1996-97 by the county Troops. The incident totals were statewide incident totals. Every incident that was assigned an incident number in one of the county Troops was counted.

The problem with the cost tabulation method outlined above is obvious. All incidents, even those of a similar nature, are not equal in terms of complexity or time and resource requirements. Currently, the Pennsylvania State Police does not have the means to accurately capture the time expended or the number of personnel and equipment committed to each incident. Some sample situations which hamper cost estimation follow:

- A drug investigation often requires extended surveillance, wiretaps, and search warrants with multiple officers assisting. AIMS recognizes only one incident.
- Many State Police Stations are located within an area of non-primary jurisdiction (areas which have local police coverage and in which the Pennsylvania State Police is not the primary service provider). Every time an individual arrives on Station and requests tours, speeches, etc., an incident number is taken with the location being that of the Station. This artificially inflates the numbers in the Automated Incident Memo System for the municipality.
- If a State Police member sustains an injury or if Commonwealth property is lost or damaged, this cost does not appear anywhere in the incident system.
- Implicit within most requests for assistance from local police departments is the tacit acknowledgment that a particular incident in some fashion exceeds the resources of the requesting agency. It must be noted that the services being provided under these circumstances will most likely exceed any average cost figures because the recognition up front is that the incident is beyond a particular aspect of the resource capabilities of smaller agencies. Accident reconstruction, aviation services, criminal investigation assistance, and SERT callouts are prime examples.

Allocation of Members.

In November 1992, the Department implemented a new manpower allocation strategy. This State Trooper Allocation Formula (STAF) replaced fixed complement tables for Troops and Stations which had been in place since the early 1970s. STAF is a workload measure that is time-based, seeking to equalize obligated time on a statewide basis. Theoretically, if obligated time were equal among Troopers on patrol, every member on patrol should work equally as hard. The implementation of STAF initiated a staffing procedure which directly related every Station's complement to its workload.

Since the original meeting of the House Resolution 167 Task Force, work has continued to refine the cost estimates for police services. In pursuit of an alternative approach to estimating State Police service costs, the STAF formula was applied to the overall operating budgets for the county Troops. It was postulated that if a particular Station had 10% of the total complement, it is logical

to estimate that they would expend 10% of the operating cost.⁴⁴ Since the STAF formula already links complement to workload, the revised data reflects the same system of weighting incidents that the State Police uses to determine its human resource allocations. While this cost calculation method is still an estimate of actual costs, the Pennsylvania State Police believes its results to be an improvement on the data previously submitted [i.e., \$468.09 per incident].

Redefined Cost Assessment.

A report dated January 21, 1998, prepared by the Bureau of Research and Development, entitled House Resolution 167 Task Force, Pennsylvania State Police Coverage to Municipalities includes a number of attachments which represent the product of the efforts to refine cost estimates:

- Enclosure (1) of the Report contains the names of every Pennsylvania State Police Station within the State. Contained therein are columns that reflect the number of patrol Troopers assigned to each Station based upon STAF; the number of criminal investigation Troopers assigned to each Station⁴⁵; the corresponding number of vehicles to which the Station is entitled based upon their Trooper numbers; the percentage of the total Trooper complement that is on the specific Station; the corresponding percentage of the budget assigned to the Station; and the total cost assigned to the Station with the cost of vehicles included.
- Enclosure (2) of the Report lists every Pennsylvania State Police county Station within the Commonwealth along with the corresponding number of incidents for which a cost is assessed. It is based upon this number that the percentage workload for the Station was determined and the corresponding operating cost of the budget was assigned. This indicates that portion of the overall workload that was done by the particular Station.
- Enclosure (3) of the Report contains a listing of those incidents which by their very nature are not within the control of the municipality when the Station is located within their boundary. These incidents are taken at the Station and contain the Station address. This artificially inflates that municipality's workload. Examples of this would be a State Department investigation, request for fingerprints, Station tours, or a municipal police agency serving a warrant in an area of State Police jurisdiction. All of these incidents were deleted from the total workload numbers.

⁴⁴This formula also recognizes that certain Stations are minimum staffed Stations. At such a Station, although the workload does not justify the number of members there, it is necessary to keep a predetermined number of members there in order to operate 24 hours a day, seven days a week. This then reduces the number of members available to be distributed to the other Stations. Currently there are 15 minimum staffed Stations throughout the state. If the operating costs of minimum staffed Stations were passed along to individual municipalities, the municipalities would have to shoulder an increased cost per capita to maintain the status quo.

⁴⁵The allocation of members to the criminal investigation functions is also workload-based.

- Enclosure (4) of the Report contains the list of incidents included in the incident totals for an individual municipality.
- Enclosure (5) of the Report depicts all of those incidents for which an invalid municipality code was assigned. There was a total of 7,369 incidents lost through the assignment of an invalid code. This represents approximately 1.6% of the total incidents used to compute the cost assessment.
- Enclosure (6) of the Report contains a list of every municipality in the State in which the Pennsylvania State Police responded to an incident and the related information which was considered in determining the appropriate cost to be assessed.
- Enclosure (7) of the Report lists all of those municipalities in which no incidents were counted or reported to the State Police. Previously, Enclosure (3) of the Report listed those incidents which were not counted against a municipality. Frequently a Station will handle an incident in another Station's area of jurisdiction. This happens when a citizen who is unfamiliar with the area shows up at the wrong Station to report an incident. These incidents have been included in totals for the Station having operational jurisdiction over the area in which the incident should have been reported. In addition, the municipality of occurrence would be assessed for the incident.
- Enclosure (8) of the Report contains the names and pertinent information relating to those municipalities whose population is equal to or greater than 9,000.

III. COMPARISON OF TRAINING REQUIREMENTS AND ARREST POWERS OF SELECTED LAW ENFORCEMENT PERSONNEL

In an effort to examine the possible alternatives available to provide local policing options in the Commonwealth, the Task Force requested various members representing entities appointed to the Task Force to prepare reports discussing the arrest powers and training requirements of law enforcement officers or peace officers under their respective jurisdictions. Each report was submitted to the Task Force in advance and discussed during the first three Task Force meetings. Clarifications and dissents from the findings of the reports were noted through oral discussions or written submissions. In an effort to be concise, those dissents are not noted in this portion of the report unless they changed the nature of the original account which was deemed unacceptable to the Task Force.

Municipal Police Jurisdiction

Title 42, Pennsylvania Consolidated Statutes (Pa.C.S.), Chapter 89, Judiciary and Judicial Procedure, Municipal Police Jurisdiction, provides that any duly employed municipal police officer has the power and authority to enforce the laws of this Commonwealth anywhere within his primary

jurisdiction, which is defined as the geographical area within the territorial limits of the municipality which employs him or any lawful combination of municipalities which employs a municipal police officer.

Duly employed municipal police officers, under certain legally defined circumstances, are also empowered with statewide municipal jurisdiction. A municipal police officer is permitted to execute arrest and search warrants outside his primary jurisdiction providing he receives permission from the chief law enforcement officer in the municipality where the warrant is to be served. Municipal police officers may also exercise statewide authority during a hot vehicle pursuit or when a request for assistance is received from a state or federal law enforcement officer. Municipal police can also assume statewide authority if they view an offense which is a felony or one which presents an immediate clear and present danger to persons or property. Under most circumstances where a municipal police officer is permitted to exercise statewide jurisdiction, he must relinquish authority and control over any persons arrested upon the request of the chief law enforcement officer of the agency which regularly provides primary police services in the municipality where the arrest was executed.

Municipal Police Education and Training

Title 53, Pa.C.S., Municipalities Generally, Chapter 21 (commonly known as Act 120), establishes the Municipal Police Officers' Education and Training Commission (MPOETC), which is required by law to promulgate and administer a course of study for the training and certification of municipal police officers. Every municipal police officer in Pennsylvania is required to not only meet established physical, psychological, and educational prerequisites but to also satisfactorily complete basic educational and training requirements in order to receive certification from the Commission. Each officer is also required to receive twelve hours of in-service training on an annual basis.

During 1996, the Pennsylvania State Police, through its five training facilities, devoted approximately 27% of its overall instructional activity in training over 2,000 municipal police officers. The MPOETC, through contracted training schools or academies, provided basic certification training to approximately 1,200 individuals and mandatory in-service training to over 21,000 municipal police officers in 1996.

1. Municipal Police⁴⁶

Each class of municipality in Pennsylvania operates under its own code of laws or home rule charter which sets forth its governmental structure as well as the general and specific powers of local government. Not every municipality in Pennsylvania has its own police department; however, each municipal unit does have the authority, granted by the General Assembly, to enact ordinances creating a police force. The enactment of such an ordinance does not necessarily require the approval of the citizenry, but can be approved by an act of the municipality's governing body.

⁴⁶Prepared by the Pennsylvania State Police.

Cities of the First Class

Article III, Chapter 1, Section 3.3-100, of the Philadelphia Home Rule Charter establishes the City Police Department. Article V, Chapter 2, empowers the Department to provide for: (1) law enforcement; (2) maintenance of the department; and (3) operation of a police squad system. The primary function of the department is to enforce city ordinances and state laws operative within the City.

Members of the City Police Department possess all the powers conferred by statute and ordinance upon members of a police force of cities of the first class and upon constables within the Commonwealth. They are empowered to make lawful searches, seizures, and arrest for violations of any statutes or ordinances in force in the City. They may also serve subpoenas when ordered to do so by their superior officers, and to do such other acts as may be required of them by statute or ordinance.

Cities of the Second Class

Article III, Section 1, of the Second Class City Law, the act of March 7, 1901 (P.L. 20, No. 14), establishes the Department of Public Safety within the City of Pittsburgh. Although the Home Rule Charter of the City of Pittsburgh does not specifically provide for the establishment of the City Police Department, Article 11, Section 11.8-812, preserves all existing acts and ordinances affecting the organization, government, and powers of the City which are not inconsistent or in conflict with the Charter. Thus, the provisions of the Second Class City Law are applicable.

The Department is administered by a director of public safety who supervises police affairs. Article XIX, Corporate Powers of the Second Class City Law, at §XV, specifically authorizes the City “[t]o establish and maintain night-watch and police, and define duties of the same.” Section XVI provides for the regulation of the police and authorizes the City to impose fines, forfeitures, and penalties for violation of city ordinances. Section XIX empowers the City “[t]o establish and enforce suitable police regulations for the protection of persons and property...” at delineated public places.

Cities of the Second Class A

Article VI, Section 11.6-610 of the City of Scranton Home Rule Charter establishes in the Executive Branch a Department of Public Safety. No delineated powers and duties of the police department are specifically provided in the Charter. Nonetheless, the provisions of the Second Class City Law providing for the creation of the Department of Public Safety apply to the City of Scranton. See the act of March 9, 1927 (P.L. 18, No. 7) which amended the act of June 25, 1895 (P.L. 275, No. 188), section 1, as amended, and section 2, by classifying cities into four classes and providing for cities of the second class A. The second section of the 1927 act provides that, until otherwise provided by law, cities of the second class A shall “be governed, and shall have all the powers, privileges, and prerogatives now provided by laws of the Commonwealth relating to cities of the second class.”

Cities of the Third Class

Article XX of the Third Class City Code (1931 P.L. 932, No. 317) grants the council of each third class city in Pennsylvania the power, by ordinance, to establish and maintain a police force. The council of these cities are required, by ordinance, to fix the number, grades, and compensation of the members of the city police force. Management and administration of the police force in third class cities is the responsibility of a designated police chief, who reports to the city's mayor. Section 2005 of the Code makes police officers ex officio constables of the city, with full power to make arrests without warrant and upon view. Police officers are empowered to make arrests for violation of city ordinances.

Boroughs

Article XI, Subchapter (e) of the Borough Code (1965 P.L. 1656, No. 581) empowers the borough council, by ordinance, to establish a police department consisting of a chief, captain, lieutenant, sergeants, or any other classification desired by council. Council may also appoint policemen or establish a police department by an action of council rather than pursuant to an ordinance. Section 1121, similar to Section 2005 of the Third Class City Code, empowers borough police to make arrests without warrant and upon view and to make arrests for violation of borough ordinances.

Borough council is also authorized to enter into contracts with the proper authorities of near or adjacent cities, boroughs, or townships, either for mutual aid or assistance in police protection, or for the furnishing to, or receiving from, such cities, boroughs, or townships, aid and assistance in police protection.

Townships of the First Class

Article XIV of the First Class Township Code (1931 P.L. 1206, No. 331) authorizes the board of township commissioners to appoint and fix the members of the township police force. The board of township commissioners may also provide for police protection by entering into contracts with the proper authorities of near or adjacent municipalities either for mutual aid or assistance in police protection. Section 1403 of the Code gives officers full arrest powers for violations of law and township ordinances.

Townships of the Second Class

Article XIX of the Second Class Township Code (1933 P.L. 103, No. 69) provides for the creation of a police department and appointment of officers and provides in Section 1905 that "[e]ach township police officer has those powers and abilities which are granted to police officers under the laws of this Commonwealth or the rules of the Supreme Court or the ordinances of the township for which a fine or penalty is imposed unless otherwise excepted in this act."

Incorporated Towns

Although no statutory provisions apparently exist which provide for the creation of a police department in incorporated towns, the act of June 5, 1941 (P.L. 84, No. 45), repealed insofar as it relates to boroughs and townships of the first class, establishes a civil service system for the appointment and removal of police officers in incorporated towns with three or more police officers. Furthermore, Section 107 of the Borough Code authorizes incorporated towns, upon petition to the court of common pleas, to surrender all of the provisions of its special and local laws or to retain such provisions not inconsistent with the Code. Conceivably, these two provisions, when read *in para materia*, would permit incorporated towns to utilize the provisions of Borough Code in relation to creation of a police department and to utilize the civil service provisions of Act 45, if they have not been abandoned.

See above for boroughs.

2. Office of Sheriff⁴⁷

The office of the sheriff was recognized in the earliest reports of English law. Throughout history, the sheriff was recognized as the chief law enforcement officer in his shire or county. This status remains today, unless it has been changed by statutory law. The sheriff is also given authority to appoint deputies which are necessary in order to properly transact the business of his office. The requirement for training of deputy sheriffs is specifically provided by statute, i.e., the Deputy Sheriffs' Education and Training Act (1984 P.L. 3, No. 2). However, based upon a Pennsylvania Supreme Court case, a deputy sheriff needs training similar to police officers to enable a deputy sheriff to enforce specific laws of Pennsylvania. A review of statutory law provides little guidance in addressing the issue of the duties, power, and authority of a sheriff. Case law provides that, although a sheriff's primary responsibilities are to the courts, the sheriff retains all of his common law powers unless abrogated by statute. Thus, a sheriff has the power and authority to investigate or aid in the investigation of crime. More importantly, since the sheriff retains all arrest powers he had at common law, he has the authority to enforce the criminal laws as well as the vehicle laws of Pennsylvania.

Historical Review of the Sheriff's Office

The office of the sheriff was recognized in the earliest reports of English law. In fact, cases discussing the sheriff's office recognized it as even predating the Magna Carta. *Commonwealth v. Leet*, 537 Pa. 89, 641 A.2d 299 (1994); See also 70 Am Jur 2d, Sheriffs, Police, and Constables, Section 2. Throughout history, the sheriff was recognized as the chief law enforcement officer in his shire or county. *Leet* at 95. The sheriff is the "principal conservator of the peace within his bailiwick." *Commonwealth v. Vandyke*, 57 Pa. 34, 39 (1868). This status remains, unless it has been changed by the growth of local police departments or by statute. 70 Am Jur 2d, Sheriffs, Police, and Constables, Section 2. In Pennsylvania, the sheriff is recognized as a county officer by the Constitution. "County

⁴⁷ Authored by Michael Clark, Office of Attorney General, November 24, 1997, on behalf of David Kwiat, Office of Attorney General, and Dennis Rickard, Sheriffs Association of the Commonwealth of Pennsylvania.

officers shall consist of commissioners, controllers or auditors, district attorneys, public defenders, treasurers, *sheriffs*....” (Emphasis added), Pa. Const., Article 9, Section 4. A sheriff is an elected officer and is to hold a four year term. Pa. Const., Article 9, Section 4. The sheriff is also given authority to appoint deputies which are necessary in order to properly transact the business of his office. See 42 Pa.C.S. 2921 (first class counties); 16 P.S. 4205 (second class counties); and 16 P.S. 1205 (third - eighth class counties). Thus, the sheriff and the power of the sheriff have a strong historical background that provides guidance in reviewing this issue.

Training Requirements

The requirement for training of deputy sheriffs is specifically provided by statute. The Deputy Sheriffs’ Education and Training Act was established in 1984. 1984 P.L. 3, No. 2. The Act established what is known as the Deputy Sheriffs’ Education and Training Board as an advisory board to the Pennsylvania Commission on Crime and Delinquency. The board’s function is to establish, implement, and administer a minimum course of study, as well as in-service training requirements for deputy sheriffs. The training is to consist of a minimum of 160 hours, the content of which is to be determined by regulation. The Act also provides that it is the duty of all sheriffs to insure that each deputy employed, who does not meet an exception, receives the training as required by the Act within one year of being hired as a deputy sheriff.

In addition to this required training, it is important to note that in *Commonwealth v. Leet*, 537 Pa. 89, 641 A.2d 299 (1994), the Pennsylvania Supreme Court imposed additional training requirements upon a deputy sheriff. The court stated that before a deputy sheriff can perform certain functions, such as enforcing motor vehicle laws, the deputy sheriff must “complete the same type of training that is required of police officers throughout the Commonwealth.” *Id.* at 97. Municipal police officers in Pennsylvania are required to undergo mandatory training as established under 53 Pa.C.S. 2161, *et seq.*, also known as Act 120. The Municipal Police Officers’ Education and Training Program is administered under the guise of the Pennsylvania State Police. The duties of the commission include the obligation to establish and administer minimum courses of study for basic and in-service training of police officers.

Thus, training requirements in Pennsylvania are mandated by statute. A deputy must, at a minimum, undergo the training as established by the Deputy Sheriffs’ Education and Training Act. However, based upon *Leet*, a deputy sheriff may need to undergo additional training similar to municipal police officers’ training to enable a deputy sheriff to enforce the vehicle laws of Pennsylvania.

Police Power

“[Police power] is [t]he power of the State to place restraints on the personal freedom and property rights of persons for the protection of the public safety, health and morals....” *Blacks Law Dictionary*, 5th Edition.

In determining the extent of the police power of the sheriff and his deputies in Pennsylvania, one must first look to the statutory law.

“Constables, County Detectives, *Sheriffs, Deputy Sheriffs*, waterways patrolmen and game protectors shall perform all those duties authorized or imposed on them by statute.” (Emphasis added) 1976 P.L. 475, No. 121.

“The Sheriff, either personally or by deputy, shall serve process and execute orders directed to him pursuant to law.” 42 Pa.C.S. 2921.

These two sections are the only guidance that the statutes actually provide in addressing this issue; e.g., the duties, power, and authority of a sheriff in Pennsylvania. A review of additional statutory sections does not aid in addressing this issue. *Venneri v County of Allegheny*, 12 Pa. Cmwlth. 517, 316 A.2d 120 (1974). In fact, a sheriff or his deputy possesses no statutory arrest or search powers. (See Peter J. Gardner, *Arrest and Search Powers of Special Police in Pennsylvania: Do your Constitutional Rights Change Depending on the Officer's Uniform*, 59 Temp. L.Q. 497, 535 (1996).)

A review of case law does add guidance to this issue. A sheriff's primary responsibilities are to the courts. These responsibilities include the responsibility to “escort prisoners, keep order, protect judges, serve notice on litigants, provide security in the courthouse, carry out orders and warrants issued by the judges, enforce injunctions, and perform other duties as may be assigned by the court.” *Venneri v County of Allegheny*, 12 Pa. Cmwlth. 517, 524, 316 A.2d 120, 124 (1974).

However, a sheriff's power and authority is not limited to his court related duties. A sheriff does have the power to investigate or aid in the investigation of a crime. Whether or not the sheriff wants to do so is within the discretion of the individual sheriff. *Miller v Klunk*, 15 D&C 3d. 599 (1980). Thus, due to the discretion that is afforded individual sheriffs, there are considerable differences in how departments operate throughout Pennsylvania, each one varying according to the basic philosophy of the sheriff. *Id.*

The Pennsylvania Supreme Court has held that a sheriff has all powers which he possessed at common law unless abrogated by statute. In *Commonwealth v. Leet*, 537 Pa. 89, 641 A.2d 299 (1994), a deputy sheriff had stopped a defendant for a traffic violation and later charged the defendant with violations of the drug law after finding drugs in the vehicle. The lower court suppressed the drugs stating the deputy sheriff lacked the authority to stop the vehicle. The Commonwealth appealed the suppression.

The issue on appeal was whether the deputy sheriff had authority to make a warrantless arrest for motor vehicle violations committed in his presence. The Pennsylvania Supreme Court held that a sheriff or his deputy retains powers he had at common law, unless abrogated by statute, thus he does have the power to enforce vehicle laws.

The court's rationale was based on a historical analysis of the common law powers of a sheriff. This power includes the common law power to arrest in criminal cases, as the sheriff was the chief law enforcement officer of the county. The court then stated that “unless the sheriff's common law power...has been abrogated...” the sheriff retains that power. *Id.* at 96. The court found no provision in the Vehicle Code, 75 Pa.C.S., et seq., abrogating the power to enforce a breach of peace, thus the

sheriff can enforce such laws. **However, the court did qualify the grant of authority by requiring the deputy sheriff to complete the same type of training that is required by police officers in Pennsylvania.** (See training section above.)

3. **Pennsylvania Game Commission Law Enforcement**⁴⁸

The Pennsylvania Game Commission was established by the State Legislature as an independent public wildlife protection agency in 1895. The Commission's mission, in part, is to protect, conserve, and manage the Commonwealth's wildlife and their habitat.

The total authorized complement of the agency is 731 full-time employees, of which 135 are Wildlife Conservation Officer (WCO) positions. WCOs are commissioned upon graduation from the agency's training school, the Ross Leffler School of Conservation (RLSC). A WCO who laterally transfers into one of the 29 Land Management Group Supervisor slots retains his commissioned status, but his primary responsibility becomes land management. Each of the six regional offices is headed by a director supported by five staff officers who supervise specialized areas within that region, one of which is law enforcement. Currently, with one exception, all regional directors and staff officers are commissioned RLSC graduates. The lone exception supervises a public relations area. Finally, the Bureau of Law Enforcement at the central headquarters is administered by a Bureau Director and five staff officers, all of whom are commissioned graduates of the RLSC. In summary, of the 731 full-time agency positions, law enforcement is the primary responsibility of 153 slots. Another 52 positions are filled by commissioned officers whose law enforcement activities are secondary to their primary (non-law enforcement) responsibilities.

Each WCO is assigned to a district which comprises 200-350 square miles, normally one-half of a county. The entire state is divided into 135 districts. The WCO is responsible for recruiting and administering a staff of deputies who reside and work within the district. Currently, there are approximately 950 deputies statewide, averaging 7 per district. These deputy positions are not included in the total agency complement. Although deputies are commissioned officers who have the same law enforcement authority as WCOs regarding enforcement of the Game and Wildlife Code, it must be noted that they are not salaried and function as a stipend-compensated auxiliary. A deputy's primary employer is not the Game Commission. The bulk of the deputy's Game Commission time is accrued during evening hours, weekends, and peak times during the hunting season. Deputies devote most of their time to enforcement of the Game and Wildlife Code. Although their primary responsibility is to Game Commission functions within their district, both WCOs and their deputies have jurisdiction statewide.

Law Enforcement Authority

A commissioned officer's primary responsibility is enforcement of the Game and Wildlife Code and its attendant regulations. In addition, Game Commission officers are also authorized to enforce all laws of the Commonwealth relating to fish, boats, parks and forestry, and other environmental matters, under the direction of those agencies charged with the administration of those laws. When

⁴⁸Submitted by Thomas R. Littwin, Pennsylvania Game Commission.

acting within the scope of their employment, WCOs function much the same as a municipal police officer or state trooper. Officers conduct patrols, stop/inspect/search, carry firearms, secure and execute warrants, seize/confiscate unlawfully killed wildlife and hunting-related paraphernalia, detain and/or arrest persons, operate a vehicle equipped with emergency lighting and audible warning devices, and prosecute violations.

Salaried WCOs (deputies exempted) are empowered to enforce other Acts and Titles when acting within the scope of their employment. These are:

1. The Controlled Substance, Drug, Device and Cosmetic Act.
2. Title 75 (limited).
3. The Solid Waste Management Act (limited to misdemeanors and felonies).
4. The Clean Streams Law (limited to misdemeanors).
5. Title 18 relating to the Crimes Code (limited to eighteen specific chapters).

WCOs may arrest for violations of these Acts and Titles if the offense occurs in the officer's presence and the officer is acting within the scope of his employment. Also, the officer may arrest for these violations only when necessary to protect life or property.

Training

Training is best separated into two categories: initial and ongoing. Initial training is that which an officer receives when he begins his career with the agency. Ongoing training is that which must be completed on an annual basis. While the initial training for a salaried WCO is more lengthy than for a deputy, the ongoing training requirements are almost identical.

Initial training for WCOs is conducted at the Ross Leffler School of Conservation, part of the Pennsylvania Game Commission, located in Harrisburg. The training period is 38 weeks in length which includes a 10-week period when each trainee is individually placed with a veteran WCO in a district for field experience. The total curriculum is 1,520 hours, of which 478 hours relate directly to law enforcement. This law enforcement training can be broadly separated into the following areas:

Law Enforcement Administration	31 hours
Laws, Regulations, Procedures	133 hours
Law Enforcement Techniques	94 hours
Communications	22 hours
Hunting/Trapping Methods	44 hours
Officer Safety (includes firearms and defensive tactics)	154 hours

Written and practical testing is conducted periodically throughout the entire curriculum to determine each trainee's competency and proficiency. Minimum standards must be met for successful completion. Failure to meet these minimum standards can result in a trainee being terminated at any point during the training period.

Initial training for a deputy consists of 88 hours of instruction, after entrance requirements (written and physical) are met. Sixteen hours are completed at the regional office and the remaining 72 hours are given at RLSC. During this training, 31 hours are devoted to firearms and defensive tactics alone. The deputy is commissioned following successful completion of a comprehensive written examination given at the end of the initial training. During the first year after commissioning, a deputy also receives an additional 150 hours of personal instruction directly from the WCO under whom he will be working.

After the initial training, WCOs and deputies both serve a one-year probationary period during which time their performance is regularly evaluated.

Ongoing, or annual, training is mandatory for all employees commissioned as WCOs or deputies. The minimum training is as follows:

Firearms (range).....	16 hours.....	WCO and Deputy
Use of Force (classroom).....	3 hours.....	WCO and Deputy
Defensive Tactics.....	8 hours.....	WCO and Deputy
Hazardous Materials (First Responder).....		WCO and Deputy
First Aid.....		WCO
District Meetings	1-3 hours each.....	A minimum of 6 meetings are conducted by each WCO within his district per year and his deputies must attend at least 4 meetings.

Firearms training consists of both techniques and qualification and includes issued revolvers and shotguns as well as any other handguns the officer is authorized to carry when engaged in law enforcement activities. Every officer must meet minimum proficiency standards on the daylight survival course for both handgun and shotgun in order to perform law enforcement duties. All officers must also complete survival courses conducted under dim light as well as foul weather conditions with their duty firearms. Failure to complete any mandatory training can subject the officer to disciplinary action.

4. Pennsylvania Fish and Boat Commission.⁴⁹

The Pennsylvania Fish and Boat Commission is the sole state agency, charged by law, to manage the fisheries and to regulate fishing and pleasure boating in the Commonwealth. The Commission also has a vital, mandated interest in the enhancement and preservation of the state's aquatic environment. These responsibilities have been in place for more than 130 years, growing steadily in scope, complexity, and the number of people served.

Replying to a statewide convention of interested Pennsylvania citizens already concerned about the state's water courses and aquatic resources, in 1866, the legislature created what is known today

⁴⁹Submitted by Thomas J. Kamerzel, Pennsylvania Fish and Boat Commission, November 24, 1997.

as the Pennsylvania Fish and Boat Commission. Governor Andrew Curtin signed the act into law on March 23, 1866. It provided for one commission, appointed by the Governor, whose primary concern was monitoring shad migration in the state's rivers. Today, 10 members make up the Board of Commissioners.

In its early years, the Commission was supported by public subscription instead of general fund appropriations. The first fishing license was sold in 1922. That philosophy continues today. No state general fund tax money is used for Commission operations. As an independent state agency, the Commission is supported primarily with angler and boater dollars through the sale of fishing licenses and boat registrations. The Commission also receives a portion of federal taxes paid by boaters on marine fuels and a percentage of federal excise taxes on sporting goods.

Law Enforcement Personnel

The Agency's current overall work force complement is 432. Within the Bureau of Law Enforcement there are 15 Law Enforcement management personnel (commissioned officers), 82 full-time Waterways Conservation Officers, 7 Seasonal Waterways Conservation Officers, and 323 volunteer Deputy Waterways Conservation Officers. The Commonwealth is divided into six law enforcement regions. Each region has a Law Enforcement Regional Manager and an Assistant Regional Supervisor and clerical staff. There are 3 law enforcement personnel in the Harrisburg office--the Bureau Director and 2 Assistants to the Director. The Harrisburg Bureau of Law Enforcement staff also includes 1 Administrative Assistant and 2 Clerk Typists.

The Waterways Conservation Officers patrol areas generally coincide with established county lines. However, in large metropolitan counties, such as Philadelphia, Allegheny, Erie, and other counties, where the workload dictates, there are 2 or 3 Waterways Conservation Officers assigned. There are currently 81 law enforcement districts within the Commonwealth. Each Waterways Conservation Officer has the ability to recruit and administer a force of Deputy Waterways Conservation Officers. The Deputy Waterways Conservation Officers are volunteers and receive only a daily stipend to cover their expenses. They primarily enforce the Fish and Boat Code and have the same enforcement authority under the Fish and Boat Code as Waterways Conservation Officers with some minor exceptions.

Law Enforcement Authority

The Waterways Conservation Officers' law enforcement duties involve primarily enforcement of Title 30 of the Pa.C.S., Fish and Boat Code, and Title 58 of the Pennsylvania Code, Fish and Boat Regulations. Annually, the officers process approximately 10,000 summary violations, 50 boating-under-the-influence violations, and over 400 pollution and encroachment violations. The Waterways Conservation Officers and Deputy Waterways Conservation Officers are also authorized to enforce all laws, rules, and regulations relating to game, parks, and forestry under the direction of the Pennsylvania Game Commission and Department of Conservation and Natural Resources. The full-time Waterways Conservation Officers (Deputy Waterways

Conservation Officers exempted) have enforcement authority for the other acts and titles listed below when acting within the scope of their employment:

1. The Controlled Substance, Drug, Device and Cosmetic Act.
2. Title 75, the Vehicle Code (misdemeanors and felonies only).
3. The Solid Waste Management Act (misdemeanors and felonies only).
4. The Clean Streams Law (misdemeanors and felonies only).
5. Title 18 of the Pa.C.S., the Crimes Code.

The Commission has administratively limited the use of police powers by the Waterways Conservation Officers. Waterways Conservation Officers are authorized, when acting within the scope of their employment, to pursue, apprehend, or arrest a person suspected of violating the Crimes Code or another offense classified as a misdemeanor or felony. The Waterways Conservation Officer should take the appropriate enforcement action only when the offense occurs in the officer's presence while performing normal Commission law enforcement duties, and there is no other officer present whose primary duty is enforcement of the applicable state law. The enforcement action is limited only to the degree necessary to protect life and property. The public is not encouraged to believe that a Waterways Conservation Officer carries out general law enforcement work in parts of the Commonwealth that are some distance from police services. Complaints that are received from the public are relayed to the proper enforcement agency for action.

Listed below are the legislatively authorized powers and duties of Waterways Conservation Officers and Deputy Waterways Conservation Officers:

- (1) Enforce all laws of this Commonwealth relating to fish and watercraft and arrest with or without warrant any person violating the Fish and Boat Code.
- (2) Execute all warrants and search warrants for violations of the Fish and Boat Code.
- (3) Serve subpoenas issued for the examination, investigation, and trial of all offenses under the Fish and Boat Code.
- (4) Carry firearms or other weapons in the performance of their duties.
- (5) Stop vehicles or boats and search or inspect, where probable cause exists, that a violation of the Fish and Boat Code has occurred, any boat, basket, conveyance, vehicle, fish-box, bag, coat, boot, or other receptacle, when enforcing the Fish and Boat Code. The Waterways Conservation Officer shall display his badge or other insignia of identification and shall state to the person in charge of the vehicle, conveyance, or otherwise the purpose of the search.
- (6) Seize and take possession of any and all fish which may have been caught, taken, or killed at any time, in any manner or for any purpose, or had in possession or under control, or have been shipped or about to be shipped contrary to the laws of this Commonwealth and the fish so seized shall be disposed of in any manner as the executive director may direct.
- (7) Enter upon any land or water in the performance of their duties.
- (8) Demand and secure proper assistance in case of emergency.

- (9) Purchase fish for the purpose of securing evidence.
- (10) Stop and board any boat subject to the Fish and Boat Code for the purpose of inspection for compliance with Part III (relating to boats and boating) and the rules and regulations promulgated thereunder. Any boat lying at its regular mooring or berth shall not be boarded without the consent of the owner or a search warrant.
- (11) When making an arrest or apprehension or when found in the execution of a search warrant, seize all rods, reels, nets, or other fishing devices of any description, fishing or boating paraphernalia, bait, boats, or any unlawful device, implement, or appliance used in violation of the Fish and Boat Code.
- (12) When acting within the scope of their employment (except for Deputy Waterways Conservation Officers), to pursue, apprehend, or arrest any individual suspected of violating any provision of Title 18 or any other offense classified as a misdemeanor or felony. They shall also have the power to serve and execute warrants issued by the proper authorities for offenses referred to in this paragraph and to serve subpoenas issued for examination. All powers as provided for in this paragraph will be limited by such administrative procedure as the executive director, with the approval of the commission, shall prescribe.
- (13) Arrange for the administration of chemical tests of breath, blood, or urine to persons operating or in actual physical control of watercraft for the purpose of determining the alcoholic content of blood or the presence of a controlled substance under Section 5125 (relating to chemical testing to determine the amount of alcohol or controlled substance) by qualified personnel of a state or local police department, qualified Waterways Conservation Officer, or qualified personnel of a clinical laboratory, licensed and approved by the Department of Health. A Waterways Conservation Officer may administer chemical tests under this paragraph if he is qualified and the executive director designates him to do so.

Initial Training

The training program for Waterways Conservation Officer trainees consists of several phases, all designed to prepare the trainees for the various aspects of their job duties. It includes instruction in criminal justice, fisheries laws, environmental laws, boat operation and marine law enforcement, officer safety skills, communication skills, and conservation officer skills. The objective is to provide the trainee with the professional skills needed to become a competent waterways conservation officer. Training may be provided by Commonwealth-approved municipal police training academies, by professionals from outside the agency, by agency staff, and by Bureau of Law Enforcement instructors. Periods of closely monitored field training assignments are also included in the program.

The training may be divided into several major areas of concentration. They are: municipal police officer training, boat operation and enforcement skills, environmental law enforcement, conservation officer skills, communications, and officer safety skills. Descriptions of each training area and hours devoted to each follow.

Municipal Police Training

Training is provided by a program approved by the Pennsylvania Municipal Police Officers' Education and Training Commission (MPOETC). The minimum number of hours for the program (Act 120) is 520 hours. The program, administered by Indiana University of Pennsylvania's Criminal Justice Training Center, was used most recently, and it consists of 608 hours of training. It includes basic law, investigation techniques, first aid and CPR, firearms, patrol vehicle operation, and others.

Boat Operation and Boat Law Enforcement

Waterways conservation officers are responsible for the protection of the safety of boaters through the enforcement of boating safety laws. Officers must be familiar with all aspects of boating, including navigation rules, boating terminology, accident investigation, maintenance of equipment, and boating under the influence (BUI) detection and apprehension. Skills such as boat operation, trailering, water safety, anchoring, and docking must be mastered as well. The training program includes both classroom theory segments as well as practical exercises. Training areas include:

PA Basic Boating Course	8	hours
Water Safety and Rescue	16	hours
Boat Operation	40	hours
Boat and Trailer Maintenance	8	hours
BUI Enforcement	40	hours
Boat Accident Investigation	20	hours
Boat Theft Investigation	2	hours
Miscellaneous Topics	10	hours
Total Hours -	144	

Environmental Law Enforcement

The protection of aquatic resources is another area of responsibility for conservation officers. Officers must be familiar with state and federal environmental laws and regulations and be able to apply them to field situations. Investigative skills for pollution incidents are taught as well as identification of hazardous materials. Training areas include:

Pollution Investigation Techniques	16	hours
Haz-Mat Level II	16	hours
Environmental Laws and Regulations	40	hours
Adopt-A-Stream Program	8	hours
Miscellaneous Items	6	hours
Total Hours -	86	

Communications Skills

Conservation officers must be able to relate to the public in a professional manner. They must possess good public speaking skills and be able to prepare presentations for groups of various types. Skills for dealing with the different types of media must be mastered as well. Training includes:

Media Relations Skills	8	hours
Negotiation Skills	4	hours
Public Speaking	28	hours
Public Approach	4	hours
Miscellaneous Items	12	hours
Total Hours -	56	

Officer Safety Skills

The physical skills to deal with threats to the safety and well-being of officers must be developed in conservation officers as well. Topics introduced in the Act 120 program are reinforced and practiced. Training is given in the use of agency-issued defensive equipment and firearms. Bureau of Law Enforcement policies and procedures are taught to the trainees. Training areas include:

Physical Training & Self-Defense Review	20	hours
Persuader Baton	4	hours
Ice Safety and Rescue	8	hours
Handgun Retention	6	hours
Firearms Training & Qualification	34	hours
Bureau Policies	8	hours
Satanic Cult Awareness	2	hours
Radio System	4	hours
Infectious Disease Awareness	4	hours
Miscellaneous Items	16	hours
Total Hours -	106	

Conservation Officer Skills

The job of a conservation officer requires a broad base of knowledge and skills in fishing and conservation-related topics. This training section addresses some of these diverse topics. Training areas include:

Aquatic Ecology & Fish Identification	24	hours
Fisheries Management	20	hours
Amphibians & Reptiles	12	hours
Fishing Skills & Education	22	hours

Trout Production & Stocking	24	hours
Basic Photography	4	hours
Agency Organization & Mission	16	hours
Miscellaneous Items	22	hours
Total Hours -	144	

Conservation Law Enforcement

This training area addresses the issues related to enforcement of the Fish and Boat Code (Title 30), the Game and Wildlife Code (Title 34), and State Park regulations (Title 25). Trainees are taught the law, agency enforcement techniques and reporting. Training areas include:

Fish & Boat Code	24	hours
Game & Wildlife Code	12	hours
State Parks Regulations	4	hours
Criminal Procedures	12	hours
Reports and Report Writing	16	hours
Miscellaneous Items	12	hours
Total Hours -	80	

Field Training

Through the use of closely monitored field training the trainees are exposed to actual working conditions and can begin to apply their newly learned knowledge and skills. By having a competent, experienced officer to guide the trainee, the job can be learned in a less stressful manner. Field training is conducted in two blocks focused on fish law enforcement techniques and boat law enforcement and operation respectively for a total of 280 hours.

Waterways Conservation Officer -

Structured Portion of Training - 1504 hours

On-the-job probationary training - a minimum of 500 hours

5. Law Enforcement Powers of Constables and Deputy Constables.⁵⁰

Introduction

The office of constable in the Commonwealth of Pennsylvania derives from common law with a history dating to around 1066 A.D. in the British Isles. While constables were the basis of

⁵⁰ Authored by Stephen Spangenberg, Pennsylvania Commission on Crime and Delinquency (PCCD), November 26, 1997, on behalf of Thomas W. Corbett, Jr., Pennsylvania Commission on Crime and Delinquency.

early American and Pennsylvania law enforcement, the duties and responsibilities of constables have varied among townships, wards, and boroughs. Over the years, the responsibilities of constables changed and, with the establishment of police forces in many municipalities in Pennsylvania, the law enforcement duties and powers of constables began to erode.

At present, constables' authority, duties and powers are scattered throughout Pennsylvania statutes and case law. A constable is an elected official who works with local government and the minor judiciary, but to a significant extent is independent, and carries out his duties according to the dictates of the laws and rules of procedure under which he operates. The constable is considered to be a peace officer with limited law enforcement powers, whose general duties have included the maintenance of the public peace. Constables are defined as peace officers in 16 P.S. §1216; however, the peace officer duties have been largely supplanted by a focus on the constables' duties serving the minor judiciary: service of civil and criminal process, transportation of prisoners, and maintenance of court security.

Although constables most assuredly have an important role to play in the operation of the justice system, recent case law does not provide a sound basis for the utilization of constables and their deputy constables in the general provision of law enforcement services in Pennsylvania. There are a number of additional, practical issues related to the selection, supervision, and administration of constables which would tend to make such utilization of constables an impractical, unwieldy task.

Statutory Reference to Enforcement Powers

By general rule at common law, peace officers were permitted to arrest without warrant for felonies and for offenses less than a felony, committed in their presence, when a breach of the peace was involved. As previously noted, constables are statutorily defined as peace officers in 16 P.S. §1216. The arrest powers of constables are further defined in 13 P.S. §45, "The policemen and constables of the several boroughs of this Commonwealth...shall and may, without warrant and upon view, arrest and commit for hearing any and all persons guilty of a breach of the peace, vagrancy, riotous or disorderly conduct or drunkenness, or may be engaged in the commission of any unlawful act tending to imperil the personal security or endanger the property of the citizens, or violating any ordinance of said borough..." These statutes have been subject to review by the courts with varying results noted below.

In addition to these references, specific enforcement and arrest powers of constables are contained in other portions of Pennsylvania law (e.g., constables are empowered to arrest offenders against forest laws, 32 P.S. §582; constables are empowered to maintain the public peace at polling places, 25 P.S., generally).

Case Law

Focusing specifically on the status of constables in the system of government, the Pennsylvania Supreme Court, ruling in *In Re: Act 147 of 1990*, 528 Pa. 460, 598 A.2d 985

(1991), found that “Simply stated, a constable is a peace officer. A constable is a known officer charged with the conservation of the peace, and whose business it is to arrest those who have violated it. By statute in Pennsylvania, a constable may also serve process in some instances.” The Court concluded that as a peace officer and a process server, a constable belongs analytically to the executive branch of government and, therefore, cannot be placed under the judiciary branch of government. While appearing to affirmatively define the status of constables in *In Re: Act 147* with this wording, the Court reiterated its previously established ruling which defined the status of constables in Pennsylvania government. “A constable is an independent contractor and is not an employee of the Commonwealth, the judiciary, the township, or the county in which he works.” *Rosenwald v. Barbieri*, 501 Pa.563, 462 A.2d 644 (1983).

More recent case law provides a somewhat schizophrenic view of the law enforcement role and powers of constables. Two cases from the Superior Court provide differing views of constables and law enforcement powers: *Commonwealth v. Taylor*, 450 Pa.Super. 583, 677 A.2d 846 (1996); and, *Commonwealth v. Roose*, No. 902 Pittsburgh 1995, 1997 Pa.Super. LEXIS 246 (1997). The *Taylor* and *Roose* decisions both comment on the arrest powers of constables defined in 13 P.S. §45. While *Taylor* did not find 13 P.S. §45 to be restrictive of the arrest powers of constables, *Roose* found that the powers of arrest under §45 to be limited only to constables “of the several boroughs” of the Commonwealth.

In *Taylor*, the Superior Court held that “...constables possess the common law powers to conduct warrantless arrests for felonies and breaches of the peace.” However, in arriving at that conclusion, the Court also stated “...rather than enlarging the power of constables, our holding today merely recognizes that they possess a power exercised by private citizens since antiquity, the power to make warrantless arrest for felonies.” Further, the Superior Court rejected the Commonwealth’s assertion that constables possess the same authorities and duties as police officers, finding only that “the powers of constables and police officers are coextensive in matters ‘relating to conservation of the peace’.” Applying logic from *In Re: Act 147*, the Court indicated that the Supreme Court’s finding that constables are independent contractors “...clearly indicates that the Court did not consider constables and police officers analogous for all purposes, since Pennsylvania law has never characterized police officers as independent contractors.”

In *Roose* the Superior Court found that “Although discussion of the common law authority of constables is historically interesting, it is of no legal significance. Since the 19th century the Legislature has defined the duties of the office of constable by statute, even eliminating this office in the City of Philadelphia. Thus, we conclude, given this legislative regulation, that constables possess no common law police or peace officer powers but can only exercise the authority granted by statute.” The *Roose* decision looked beyond the issue of law enforcement powers and, partially based on *In Re: Act 147*, the Superior Court found practical concerns which limit the utilization of constables in a law enforcement role. “No one supervises constables in the way a police chief supervises police officers or a sheriff supervises deputies. No municipality is responsible for their actions...”

The Superior Court also reviewed the significant differences between police officers and constables in *Roose*. "Constables and deputy constables are required to have only 80 hours of basic training... Police officers are required to take a course of 520 hours... Also mandatory for police officers are minimum physical fitness standards, psychological evaluations and background investigations to determine suitability for employment..." Given these substantial differences, the Court concluded that "Enforcement of the Motor Vehicle and Crimes Codes and the serious responsibilities and challenges which it entails should not be delegated to those neither trained nor supervised for such work."

(NOTE: After the submission of this report by the Pennsylvania Commission on Crime and Delinquency, the Pennsylvania Supreme Court affirmed the decision of the Superior Court in *Roose*. The court held "...due to the absence of statutory authority for constables to enforce the motor vehicle laws, they do not possess such authority, as such authority cannot be derived from the common law as was the case for sheriffs in *Leet*, supra." More specifically, the Court found that "[u]nlike sheriffs, whose powers grew in the common law tradition to include broad law enforcement authority, the powers of constables were not developed as fully in such a strong common law tradition, but were rather set forth in a series of statutes." *Commonwealth vs. Roose*, No. 0058 WD Appeal Docket 1997 [J-64-98].)

Selection of Constables and Deputy Constables

As noted above, the Superior Court in *Roose* identified serious shortcomings in the selection of constables and their deputies in comparison to police officers. As provided by 13 P.S. §§1, 2, and 3, any "properly qualified person" may be elected to serve as constable. Under 13 P.S. §§11 and 12, a vacancy in the office of constable may be filled, respectively, by "a suitable person" or "some other respectable person" upon appointment by the court. Each constable may appoint one or more deputy constables, subject to approval by the court under 13 P.S. §§21 and 22. These sections require only that an appointed deputy must reside in the same district as the constable who appointed him/her.

In line with the view of the Superior Court in *Roose*, as noted above, these requirements for the office may be viewed by some as inadequate, especially when one considers that they are the basis for a person holding an office which has various powers to deprive citizens of their liberty and/or property. There are exceptions to these inadequate requirements in a very few counties. The President Judges of the Courts of Common Pleas in those counties require background investigations of constables and deputy constables who wish to serve the minor judiciary.

Training, Supervision, and Administration

In considering the potential utilization of constables to provide law enforcement services in Pennsylvania, the disparities in training, supervision, and administration which exist between police officers and constables must be considered. A police officer must successfully complete 520 hours of basic training, as mandated by 53 Pa.C.S., Chapter 21, prior to performing the duties

of a police officer. A constable must successfully complete 80 hours of basic training, as mandated by Act 44 of 1994, prior to performing the judicial duties defined and enumerated by Act 44.

While both constables and police officers perform their respective duties within the framework provided by statutes, rules of procedure, and case law, police officers must also operate under the administrative structure and direction of their police departments. Constables are defined as independent contractors and, although they receive nominal supervision by the courts they serve, unless subject to civil or criminal prosecution, constables are ultimately responsible only to themselves.

The training, supervision, and administration of constables, or lack thereof, present practical problems in the utilization of constables to provide general law enforcement services in the Commonwealth. In addition to the practical problems in the ability to exercise law enforcement authority, such wide differences in training, supervision, and administration present a distinct difference in the level and quality of service that could be delivered to, or expected by, the citizens and the justice system.

Summary

The present duties performed by, and the powers exercised by, constables are relatively commensurate with their status as independent contractors and their level of mandated training. Constables provide important, needed services which keep the civil and criminal justice systems operating. However, as noted in this report, recent case law does not provide a sound basis for the utilization of constables, and their deputy constables, in the general provision of law enforcement services in Pennsylvania. The utilization of constables to provide law enforcement services to Pennsylvania's citizens would seriously, and perhaps dangerously, stretch the capabilities of constables, their support mechanisms, and their training. This conclusion by PCCD was refuted by Emil Minnar, President of the Pennsylvania State Constables Association.⁵¹ See below.

⁵¹"The PCCD report, while excellently prepared, apparently has not considered certain information which we (the Pennsylvania State Constables Association) 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 filled, 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*. **(NOTE: This article was prepared prior to the Supreme Court's affirmation of the Superior Court's holding in *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 constable's 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

Training and Certification of Constables⁵²

Act 44 of 1994 established the Constables' Education and Training Board as an advisory board to the PCCD. Act 44 empowered the Board to create and implement programs of mandatory training and certification for constables. The Board was initiated and began its work in September 1995, upon appointment by the Governor and confirmation by the Senate.

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 acknowledgment 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."

⁵² Authored by Stephen Spangenberg, Pennsylvania Commission on Crime and Delinquency (PCCD), November 26, 1997, on behalf of Thomas W. Corbett, Jr., Pennsylvania Commission on Crime and Delinquency.

Initial Certification Programs

The training and certification requirements of Act 44 of 1994 are not mandatory for all constables. The Act requires that constables who want to perform judicial duties, as defined by the Act, must be certified in order to perform the judicial duties and to be paid for those services. The Board's 80-hour basic training and its waiver examination programs are established by Act 44 as the basis for the initial certification of constables.

The basic training program consists of a total of ten topics, listed below, and was initiated in September 1996. Since that time, the Board has held 61 courses at 22 locations in the Commonwealth, certifying 610 constables through those courses. The waiver examination has been presented in 46 sessions at 23 locations, with 591 constables certified based on their successful completion of the exam.

- I. Introduction - 4 hours
 - A. Constable Orientation
 - B. Criminal Justice System Introduction

- II. Professional Development - 8 hours
 - A. Professional Conduct
 - B. Formal Communications

- III. Civil Law and Process - 20 hours
 - A. Civil Process Overview
 - B. Rules of Civil Procedure
 - C. Domestic Matters

- IV. Criminal Law and Process - 12 hours
 - A. Constitutional Law
 - B. Pennsylvania Crimes Code
 - C. Criminal Process Overview
 - D. Powers of Arrest
 - E. Rules of Evidence
 - F. Search and Seizure

- V. Use of Force - 4 hours
 - A. Lethal Versus Non-Lethal Force
 - B. Use of Force Continuum
 - C. Decision Making
 - D. Legal Aspects

- VI. Mechanics of Arrest - 4 hours
 - A. Restraining Techniques
 - B. Restraining Devices
 - C. Handcuffing Procedures
 - D. Search Procedures/Situations

- VII. Defensive Tactics - 8 hours
 - A. Unarmed Defense Techniques
 - B. Weapon Retention
 - C. Use of Force Options

- VIII. Prisoner Transport/Custody - 8 hours
 - A. Principles and Practices
 - B. Prisoner Movement

- IX. Courtroom Security - 4 hours
 - A. Basic Courtroom Security

- X. Crisis Intervention - 8 hours
 - A. Assessing Persons & Situations

Continuing Education

In order to maintain their certification, Act 44 requires that constables annually complete up to a maximum of 40 hours of continuing education training. In September 1997, the Board implemented its first cycle of continuing education, consisting of five topics for a total of 20 hours of instruction, which will be offered through calendar year 1998.

Civil and Criminal Law Updates - reviews Pennsylvania's rules of civil and criminal procedure relevant to constables' duties, focusing on statutory changes and case law updates.

Basic Investigative Interviewing - includes instruction on the definitions and differences between an interview and an interrogation, how to formulate questions, the differences between and appropriate utilization of open-ended and closed-ended questions, the characteristics of an effective interviewer, and common myths of interviewing.

Ethics - an encapsulation of the ethics portion of the Professional Development topic from the basic training, intended as a timely review of that material, including ethical problems drawn from law enforcement situations.

Crisis Intervention - focusing on constable safety, with emphasis on levels of disruptive behavior and the constable's ability to match his or her reaction to that behavior, this instruction provides an in-depth look at control of fear and anxiety, methods to prevent physical violence, and the use of non-verbal and verbal control techniques.

Use of Force - includes the review and definition of the force continuum, aspects of resistance and control, the levels of actions against constables and the appropriate levels of response, use of force options, and the constable's obligation to document the use of force.

Firearm Training and Certification

In addition to the basic training and continuing education training programs, Act 44 required that constables who wish to carry a firearm in the performance of constable duties must complete a firearm training and certification program established by the Board. That program was initiated in October 1997 and has been established as an annual requirement. The course presently consists of 20 hours of instruction, including classroom and firing range instruction and a course of fire for qualification.

6. State and County Probation and Parole Officers.⁵³

ARREST POWERS:

All State and County Probation and Parole Officers are given the status of Peace Officers under Commonwealth of Pennsylvania statutes.

The act of August 6, 1941 (P.L. 861, No. 323), Section 27, states: "Parole Officers appointed by the Board are hereby declared to be peace officers and are hereby given police power and authority throughout the Commonwealth to arrest without warrant, writ, rule or process any parolee or probationer under the supervision of the Board for failing to report as required by the terms of his probation or parole, or for any other violation thereof." This Act expressly addresses the Parole Agents, Field Supervision staff, and deputized staff of the Pennsylvania Board of Probation and Parole. (P.B.P.P.)

County Probation Officers are given identical status by Act 277 of 1963, which provides, "that probation officers shall have the power of peace officers in the performance of their duties. Probation Officers heretofore or hereafter appointed by any court of record of this Commonwealth are hereby declared to be peace officers and shall have police powers and authority throughout the Commonwealth to arrest with or without warrant, writ, rule or process any person on probation or parole under the supervision of said court for failing to report as required by the terms of his probation or parole or for any other violation of his probation or parole."

The peace officer/police power provided to State Agents and County Probation Officers is limited to the persons under the supervision of the respective State and County jurisdictions. These two acts do not confer general police powers upon these officers, but limits those powers as described in law.

Field supervision staff of the P.B.P.P. routinely arrest parolees and probationers in the course of their duties.

Of the sixty-seven (67) county probation departments in the Commonwealth, fifty-five (55) of those departments make their own arrests. The President Judge in each county makes the determination as to who makes arrests of parolees/probationers in their jurisdiction.

Currently, there are no probation departments in Mercer and Venango Counties. The Board provides full service to these counties, including pre-sentence investigations, probation supervision, and arrest when necessary.

In 1965, the Parole Act was amended in an effort to provide greater supportive assistance by the Board to the operation of county probation and parole departments. The Board was empowered by statute to establish standards for operation and personnel of county probation and parole offices, with funding being awarded to those counties which complied with the standards and could demonstrate the need for subsidy to hire additional staff. The intent of the grant-in-aid program was to help improve

⁵³ Authored by Robert J. Pryal, Pennsylvania Board of Probation and Parole.

and strengthen the functioning of the county probation departments while helping to encourage uniform standards for operation and personnel practices.

The Board was also authorized to conduct pre-sentence investigations at the request of the court as an aid in the sentencing process and to help alleviate the high workloads that existed in many county probation offices. With this expanded role in the correctional system, the name of the agency was changed to the Pennsylvania Board of Probation and Parole, and the membership of the Board was increased from three to five members. During the 1995 Special Session on Crime, the Board was expanded to nine (9) members.

Duties of State Parole Agents and County Probation Officers

The day-to-day duties of State Parole Agents and County Probation Officers are similar; therefore, the duties herein described apply to both State and County Officers.

In accordance with the Board's and Court's policy of providing protection to the community, the agent supervises individuals who were sentenced for involvement in a criminal offense and who eventually need the supervision of a parole agent. The offenders may be assigned in any one of the following ways: A parolee from a state institution, a special parole or probation case assigned by a local jurist, or he may be transferred from another county or another state. County probation officers receive probation cases from the Court, and parolees from county prisons upon parole by the sentencing judge.

Agents help offenders reach an improved understanding of themselves and their life situation. Problems such as drug use, employment, etc., are addressed to assist the offender to successfully reintegrate into the community.

Agents refer offenders to other agencies for specialized therapy in order to assist them with problems the agent feels need special attention. These areas of specialized problems may deal with jobs, drugs, alcohol and mental health, or other areas of adjustment. Agents develop and modify treatment plans based upon the particular needs of the offender to assist offenders to develop positive behaviors.

Agents participate in court proceedings providing testimony on offender adjustment and information concerning agency policy and procedures to assist the court in making proper disposition of technical violations of probation or parole. Court cases may result in revocation of probation/parole, or the imposition of special conditions of probation/parole.

Agents participate in Board of Probation and Parole hearings presenting evidence, testimony, presenting witnesses, and performing related work to facilitate the reincarceration of a parole violator. Agents conduct investigations such as: Pre-parole, Pre-sentence, Pardon Board, Arrest, Technical Parole Violation, Special Investigation (other states, other districts, background for new employees, etc.), Commutation, and Classification Summaries.

Agents speak to prospective employers regarding the importance of employment for offenders. Agents assess offenders' conduct and activities through home, office, and employment contacts. Agents keep a running record of these contacts in their field workbooks.

Agents write periodic progress and conduct reports which summarize the parolees/probationers adjustment for the Board or Court.

Agents transport prisoners to and from county and state correctional institutions as necessary. Agents review circulated materials, and attend staff meetings and training sessions in order to keep abreast of changes in the law and Agency policies and procedures.

Agents routinely arrest parolees and probationers who have violated their conditions of parole or probation.

Agents answer telephone calls and questions from visitors and conduct interviews with offenders in order to maintain continuity of services in the absence of the assigned parole agent. Agents monitor the status of outstanding criminal charges against clients by reviewing information maintained by local law enforcement authorities. Agents meet with these authorities in order to determine if further action is needed by the Board of Probation and Parole.

The Pennsylvania Board of Probation and Parole is legislatively mandated to provide training to county probation and parole departments throughout the Commonwealth. The primary means by which this is accomplished is the joint state/county training program, managed by the Board's Division of Training. To accomplish this, an annual curriculum is developed and presented to the counties by way of a quarterly training catalog. The centerpiece of each training quarter is a Basic Probation and Parole Skills Academy. That academy is three (3) weeks in length and prepares newly hired parole agents and probation officers for field duties.

Training

For State parole agents, attendance at the Basic Skills Academy is followed by mandatory domestic violence protocol training and a five day initial firearms qualification course. Concurrent with the Basic Skills Academy and Firearms, a six month on-the-job training program is administered by their immediate supervisor. The on-the-job training follows a programmed manual and guides newly hired parole agents through their duties in a logical progression. State parole agents are required to complete forty (40) hours of annual training in accordance with the American Probation and Parole Accreditation Standard.

For most county departments some form of local classroom and on-the-job training is presented to new officers as a complement to the Basic Skills Academy. Once they have completed the Basic Training Academy, both State parole agents and County probation officers are eligible to attend courses offered in our general curriculum.

All State parole agents must take and complete the Use of Force curriculum. It is mandatory for all State parole agents to attend and complete a five day Initial Firearms Course. At this point in

time, it is optional for parole agents to choose to carry a Board issued firearm. Those agents choosing to carry a firearm must successfully complete all Use of Force trainings and the Initial Firearms Course. Parole Agents must attend and successfully complete mandatory firearms training throughout each calendar year and successfully pass an annual requalification course. All Board firearms instructors must successfully complete the one week Municipal Police Officers Firearms Instructor Course given by the Pennsylvania State Police Firearms Training Unit. Board instructors are then certified as firearms instructors by the PSP. The Board Firearms Instructor continues to receive training with regard to firearms, case law, and first-aid throughout each calendar year. The Board's firearms instructors must requalify annually and attend mandatory trainings to maintain their status of Board Firearms Instructors. These instructors conduct all initial, requalification, and tactical trainings mandated for parole agents authorized to carry a firearm in the course of their duties.

Of the 67 county probation departments in the Commonwealth, 34 departments authorize probation officers to carry firearms. Recently, the County Probation and Parole Officers' Firearms Education and Training Commission was created. The Commission has already begun to conduct training and certify probation officers to carry firearms. The Board Firearms Coordinator and a number of Board Firearms Instructors have participated in the Commission's initial training.

In addition to Use of Force and Firearms training received by Parole Agents and Probation Officers, there is a host of professional development trainings given to this staff.

7. Campus Police.⁵⁴

This Section addresses campus police at community colleges⁵⁵ and at state-owned, ⁵⁶state-related, ⁵⁷ and stated-aided⁵⁸ colleges and universities. The enabling statutory provisions regarding "Campus Police" are currently set forth in two consecutive provisions, Section 2416 and Section 2416.1, of the Administrative Code (Act 175 of 1929, as amended; 71 P.S. §§646 and 646.1). The first section (2416) governs security or campus police at state-owned colleges and universities and community

⁵⁴ Authored by Patrick F. Kielty, Esq., Local Government Commission.

⁵⁵ A community college is an institution now or hereafter created pursuant to Article XIX-A of the act of March 10, 1949 (P.L. 30, No. 14), known as the Public School Code of 1949, or the act of August 24, 1963 (P.L. 1132, No. 484), known as the Community College Act of 1963.

⁵⁶ State-owned colleges and universities are those institutions which are part of the State System of Higher Education, pursuant to Article XX-A of the act of March 10, 1949 (P.L. 30, No. 14), known as the Public School Code of 1949.

⁵⁷ State-related colleges and universities are The Pennsylvania State University, the University of Pittsburgh, Temple University, and Lincoln University and their branch campuses.

⁵⁸ State-aided colleges or universities are those nonprofit institutions that are legally authorized to grant degrees and which offer needed, specified higher education services in the public interest of the Commonwealth, receive a direct Commonwealth appropriation, and meet other specified requirements of the Department of Education relating to this status or classification.

colleges, and it also contains provisions governing the Capitol Police and the Commonwealth Property Police. The second, and newer, section (2416.1) governs campus police at state-aided and state-related colleges and universities.

The new section of the Administrative Code, Section 2416.1, specifically relating to police at state-aided and state-related colleges and universities, was added by Act 57 of 1997. It mirrors most of the elements in Section 2416, which still applies to the state-owned colleges and universities of the State System of Higher Education and to the colleges in the Commonwealth's Community College system.

Under both provisions, campus police are given various enumerated powers; and, except as to their exercise beyond the grounds of the college or university, these powers appear to be similar for each category of campus police. All campus police are given to use, as deemed necessary, the same powers as the police in the municipalities where the college or university is located. In addition, a variety of specified purposes for campus police are set forth, such as excluding or removing trespassers and disorderly people, enforcing good order, and protecting the grounds and buildings of the college or university by arresting and bringing charges against persons committing offenses.

Over the years, a number of court cases have considered the arrest powers of campus police beyond the grounds of the college or university. In *Commonwealth v. Holderman*, 284 Pa. Super. 161, 167, 425 A.2d 752, 756 (1981), the court reasoned that "[i]n order for a campus police agency to adequately protect the campus and its residents...its officers must be permitted to pursue and arrest persons who commit summary offenses on campus and attempt to escape into the adjoining municipality." The case of *Commonwealth v. Savage*, 403 Pa. Super. 446, 589 A.2d 696, (1991), however, clearly limits *Holderman* to situations where the offense occurs on campus and the perpetrator attempts to escape into the adjoining municipality. In *Savage*, the court noted that "Section 646(h)⁵⁹ provides very narrow circumstances under which a campus police officer may exercise his or her powers in a surrounding municipality."⁶⁰ Moreover, in another related case, the court found that the law relating to municipal police jurisdiction was inapplicable to park police.⁶¹ This case was cited in *Savage* for the proposition that the same provision, 42 Pa.C.S.A. §8953 of the law relating to municipal police jurisdiction, also does not apply to campus police. See also *Horton v. Commonwealth, Dept. of Transp., Bureau of Driver Licensing*, 694 A.2d 1 (Pa. Cmwlth. 1997).

The new provision of the Administrative Code, Section 2416.1, specifically relating to police at state-aided and state-related colleges and universities, added by Act 57 of 1997, addresses these jurisdictional issues. With regard to the scope of their jurisdiction, there is now a clear difference between campus police at the state-related and state-aided colleges and universities and those at state-owned colleges and universities and community colleges.

⁵⁹71 P.S. §646(h); Section 2416(h) of The Administrative Code of 1929.

⁶⁰See 589 A.2d at 700, n.8.

⁶¹*Commonwealth v. Roberts*, 356 Pa. Super. 309, 514 A.2d 626, 629 (1986).

Not only may police at the state-related or state-aided institutions now exercise their primary jurisdiction on the grounds and within 500 yards of the grounds of the institution, they also may, where warranted in accordance with the law relating to municipal police jurisdiction,⁶² exercise their powers beyond their primary jurisdiction (i.e., beyond 500 yards of the grounds of the college or university). On the other hand, except in cases of "hot pursuit," security or police employed by state-owned colleges and universities or community colleges may exercise their powers only on the premises of the institution, although the option is given to allow state-owned colleges or universities, except in Philadelphia or Pittsburgh, to enter into agreements with the municipalities in which they are located to aid the police in the municipality upon request in emergency situations.

Training

With regard to training, a campus police department at a state-related or state-aided college or university campus police department certified by the Office of Attorney General as a "criminal justice agency"⁶³ comes under the law relating to municipal police education and training.⁶⁴ By contrast, police forces at state-owned colleges and universities and community colleges are not statutorily mandated to comply with the training requirements of the law relating to municipal police education and training. The governing legislation requires police in these departments to complete a course of training, including crisis intervention training and riot control, as approved by the Department of Education. Nevertheless, it is the policy of the State System of Higher Education and the Department of Education to require that campus police at institutions under their jurisdiction be trained in accordance with the law governing municipal police education and training.⁶⁵ It is to be emphasized, however, that police at state-owned colleges and universities and community colleges may not exercise their authority off-grounds⁶⁶ in accordance with the law relating to municipal police jurisdiction, in contrast to campus police at the state-related and state-aided institutions. Moreover, a police officer at a college or university subject to the municipal police education and training law may not enforce criminal laws, enforce moving traffic violations under Title 75 (relating to vehicles), or be authorized to carry a firearm unless the requisite training has been completed.⁶⁷

Thus, as currently authorized, campus police at state-related and state-aided institutions effectively serve on (and within 500 yards of) the grounds of those institutions as the equivalent of municipal police and are clearly authorized to work in concert with municipal police. On the other hand, the authority

⁶²Penna. Consolidated Statutes, Title 42, Chapter 89, Subchapter D.

⁶³18 Pa.C.S. §9102.

⁶⁴Penna. Consolidated Statutes, Title 53, Chapter 21, Subchapter D.

⁶⁵This policy was verified by telephone confirmation by Mr. Greig Mitchell, Vice Chancellor for Finance and Administration of the State System of Higher Education, and Mr. Richard Varner, Director of the Traffic Institute for Police Services of the Pennsylvania Department of Education.

⁶⁶Exceptions to this restricted jurisdiction exist only in cases of "hot pursuit" or where there exists an agreement with the host municipality for assistance to be rendered in emergencies as requested by the municipality.

⁶⁷53 Pa.C.S. § 2167.

of campus police of state-owned colleges and universities and community colleges is restricted to the grounds of the institutions with only very limited exceptions as previously discussed;⁶⁸ they do not have the extended jurisdiction⁶⁹ granted to campus police at state-related and state-aided colleges and universities.

8. Investigative/Arrest Authority of the Bureau of Criminal Investigation and the Bureau of Narcotics Investigation & Drug Control of the Pennsylvania Office of Attorney General (BCI/BNI).⁷⁰

In general, the jurisdiction of the Pennsylvania Office of Attorney General (OAG) to investigate and prosecute criminal conduct is derived from the Commonwealth Attorneys Act, 71 P.S. §732-101 *et seq.* With respect to investigative authority of its criminal investigators (Bureau of Criminal Investigations and Bureau of Narcotics Investigation and Drug Control) (BCI and BNI), this Act specifically provides that the Attorney General shall have the power to investigate any criminal offense which he has the power to prosecute. The following excerpt of the Act addresses this as follows, in pertinent part:

* * * *

71 P.S. §732-206. Law enforcement and criminal investigations; investigating grand juries

(a) Law enforcement; criminal investigations. - The Attorney General shall be the chief law enforcement officer of the Commonwealth; the district attorney shall be the chief law enforcement officer for the county in which he is elected. The Attorney General shall have the power to investigate any criminal offense which he has the power to prosecute under section 205; he shall continue the existing programs relating to drug law enforcement. The Pennsylvania State Police shall cooperate with the Attorney General and furnish such services as the Attorney General shall request. (emphasis added)

With regard to the OAG's power to prosecute, the Commonwealth Attorneys Act addresses this as follows, in pertinent part:

* * * *

71 P.S. §732-205. Criminal prosecutions

⁶⁸See note 65, *supra*.

⁶⁹Jurisdiction: within 500 yards of the grounds of the institution; and beyond, if authorized in accordance with the law relating to municipal police jurisdiction.

⁷⁰Prepared by the Office of the Attorney General, February 27, 1998.

(a) Prosecutions.-The Attorney General shall have the power to prosecute in any county criminal court the following cases:

(1) Criminal charges against State officials or employees affecting the performance of their public duties or the maintenance of the public trust and criminal charges against persons attempting to influence such State officials or employees or benefit from such influence or attempt to influence.

(2) Criminal charges involving corrupt organizations as provided for in 18 Pa.C.S. §911 (relating to corrupt organizations).

(3) Upon the request of a district attorney who lacks the resources to conduct an adequate investigation or the prosecution of the criminal case or matter or who represents that there is the potential for an actual or apparent conflict of interest on the part of the district attorney or his office.

(4) The Attorney General may petition the court having jurisdiction over any criminal proceeding to permit the Attorney General to supersede the district attorney in order to prosecute a criminal action or to institute criminal proceedings. Upon the filing of the petition, the president judge shall request the Supreme Court to assign a judge to hear the matter. The judge assigned shall hear the matter within 30 days after appointment and make a determination as to whether to allow supersession within 60 days after the hearing. The district attorney shall be given notice of the hearing and may appear and oppose the granting of the petition. Supersession shall be ordered if the Attorney General establishes by a preponderance of the evidence that the district attorney has failed or refused to prosecute and such failure or refusal constitutes abuse of discretion.

(5) When the president judge in the district having jurisdiction of any criminal proceeding has reason to believe that the case is a proper one for the intervention of the Commonwealth, he shall request the Attorney General to represent the Commonwealth in the proceeding and to investigate charges and prosecute the defendant. If the Attorney General agrees that the case is a proper one for intervention, he shall file a petition with the court and proceed as provided in paragraph (4). If the Attorney General determines that the case is not a proper case for intervention, he shall notify the president judge accordingly.

(6) Criminal charges investigated by and referred to him by a Commonwealth agency arising out of enforcement provisions of the statute charging the agency with a duty to enforce its provision.

(7) Indictments returned by an investigating grand jury obtained by the Attorney General.

(8) Criminal charges arising out of activities of the State Medicaid Fraud Control Unit as authorized by Article XIV (relating to fraud and abuse control) act of June 13, 1967 (P.L. 31, No. 21), known as the "Public Welfare Code," and the Federal law known as the "Medicare-Medicaid Antifraud and Abuse Amendments."

(b) Concurrent jurisdiction to prosecute.-The Attorney General shall have the concurrent prosecutorial jurisdiction with the district attorney for cases arising under subsection (a)(1), (2), and (6) and may refer to the district attorney with his consent any violation or alleged violation of the criminal laws of the Commonwealth which may come to his notice.

(c) Criminal appeals.-In any criminal action in which there is an appeal, the Attorney General may in his discretion, upon the request of the district attorney, prosecute the appeal; he may intervene in such other appeals as provided by law or rules of court.

(d) Powers when prosecuting.-Whenever the Attorney General prosecutes a criminal action, or appeal, he may employ such special deputies as are necessary for that purpose; such deputies shall take the oath of office and be clothed with all the powers, and subject to all the liabilities imposed by law upon district attorneys, including the power to sign informations or indictments. Whenever the Attorney General intervenes in a criminal action, the costs incurred as a result of the intervention shall be paid by the Commonwealth.

The Commonwealth Attorneys Act includes the power to investigate and prosecute criminal matters relating to the public duties of state officials and employees; corrupt organizations; charges referred by a Commonwealth agency pursuant to such agency's enforcement provisions; presentments returned by an investigating grand jury; and matters arising out of the Medicaid Fraud Control Section.

With respect to charges referred by a Commonwealth agency, Section 732-205(a)(6) provides that the Attorney General may prosecute criminal charges investigated by and referred to him by a Commonwealth agency arising out of enforcement provisions of the statute charging the agency with a duty to enforce its provisions. Agencies that commonly refer such matters to the Office of Attorney General include, but are not limited to, the following: Pennsylvania Department of Revenue (tax crimes); Department of Public Welfare (Medicaid Fraud); Pennsylvania Department of Environmental Protection (environmental crimes); the State Ethics Commission (public corruption/ethics law violations); the

Pennsylvania Securities Commission (fraudulent and prohibited securities practices); and the Pennsylvania Department of Banking (illegal banking operations).

In addition, the Commonwealth Attorneys Act provides that the Attorney General may supersede a district attorney under certain circumstances and may prosecute upon request of a district attorney where a conflict of interest exists or where a district attorney's office lacks adequate resources to properly investigate and prosecute, 71 P.S. §732-205(a)(3),(4) and (5). (NOTE: Act 72 of 1998 amended Section 1420 of the County Code by authorizing district attorneys in counties of the third through eighth class to appoint special assistants or deputy assistants, temporary assistants, temporary special assistants, or temporary deputy assistants, including a deputy attorney general or an attorney employed by the Commonwealth.)

The Attorney General's jurisdiction is not confined solely within the Commonwealth Attorneys Act. Several other Pennsylvania statutes also authorize the Attorney General to prosecute various other criminal sanctions provided for throughout Pennsylvania law. These other statutes are listed below:

1. Dealing in Proceeds of Unlawful Activities (Money Laundering), 18 Pa.C.S. §5111.
2. Enforcement (Violations of the Election Code connected with any statement or report and the contents thereof which is to be filed with the Secretary of the Commonwealth), 25 P.S. §3260(b).
3. Insurance Fraud Prevention Act, 40 P.S. §3701-101 et seq.
4. Criminal proceedings (Workers' Compensation Act — Insurance Fraud), 77 P.S. §1039.9(b).
5. Provider Prohibited Acts, Criminal Penalties and Civil Remedies (Medicaid Fraud Act), 62 P.S. §1407 (b)(4).
6. Neglect of Care-Dependent Person; Enforcement (Patient Abuse Act), 18 Pa.C.S. §2713(d)(2).
7. Deceptive or Fraudulent Business Practices, (including telemarketing fraud), 18 Pa.C.S. §4107.
8. Antibid-Rigging Act, 73 P.S. §1611 et seq.
9. Investigating Grand Jury Act, 42 Pa.C.S. §4541 et seq.

While the foregoing relates to the Office of Attorney General's general criminal law enforcement authority (and primarily BCI), two additional statutes relate specifically to BNI: (1) The Controlled Substance, Drug, Device and Cosmetic Act, 35 P.S. §780-101 et seq.; and (2) Loss of Property Rights to the Commonwealth (Controlled Substances Forfeitures Act): 42 Pa.C.S. §6801 et seq.

The Controlled Substance, Drug, Device and Cosmetic Act speaks to a BNI Agent's specific authority to enforce the Act, as well as defining Pennsylvania drug violations. The Act addresses this as follows, in pertinent part:

35 Pa.C.S. §780-134 Administration of act

(a) Except as may be otherwise provided by law, the provisions of this act shall be administered by the department. The secretary is authorized to employ personnel and to fix their compensation subject to the act of April 9, 1929 (P.L. 177), known as "The Administrative Code of 1929."

(b) The secretary is authorized and directed to establish a Bureau of Drug Control within the department and to employ therein sufficient personnel to perform the duties imposed upon the department by this act.

(c) The secretary may designate specific officers and employes of the Bureau of Drug Control as law enforcement personnel and authorize such personnel to:

(1) Carry firearms in the performance of his official duties;

(2) Execute and serve search warrants, arrest warrants, administrative inspection warrants, subpoenas, and summonses issued under the authority of the Commonwealth;

(3) Make arrests without a warrant for any offense under this act committed in his presence, or if he has probable cause to believe that the person to be arrested has committed or is committing a violation of this act which may constitute a felony;

(4) Make seizures of property pursuant to this act; or

(5) Perform other law enforcement duties as the secretary designates.

(d) Nothing contained herein shall be deemed to limit the authority of the Bureau of Drug Control, the Pennsylvania State Police, the Department of Justice or any other law enforcement agency in dealing with law enforcement matters with respect to persons engaged in the unlawful importation, manufacture, distribution, sale and production of controlled substances, other drugs or devices or cosmetics nor the authority of the council in performing any duties imposed upon it by the "Pennsylvania Drug and Alcohol Abuse Act."

(In interpreting the foregoing portion of the Controlled Substance, Drug, Device and Cosmetic Act, it is important to note that 35 P.S. §780-134 has been modified inasmuch as the functions, powers,

and duties of the Department of Health and the Secretary of Health with regard to the establishment and operation of the "Bureau of Drug Control" as set forth in subsections (b), (c), and (d) of 35 P.S. §780-134 have been transferred to the Department of Justice and the Attorney General (by reorganization plan #6 of 1973, 71 P.S. 755-6. In addition, all personnel, appropriations, records, equipment, etc. of the Department of Justice were transferred to the Office of Attorney General in 1981 (pursuant to 71 P.S. §732-501). The net effect of the foregoing means that the "Bureau of Drug Control," as referenced above, is now the BNI and the "secretary," as referenced above, is now the Attorney General.)

Likewise, the drug forfeiture law (Loss of Property Rights to Commonwealth) 42 Pa.C.S. §6801 *et seq.* confers additional enforcement authority on the OAG (and BNI specifically) because seizures effected by statewide investigators are to be forfeited to the OAG. When this language is read in conjunction with 35 P.S. §780-134(c)(4) cited above, BNI's authority with regard to such seizures/forfeitures is clear.

Neither BCI nor BNI Agents are "police officers." Rather, they are "law enforcement officers." The two seminal cases in this regard are *Commonwealth v. Carsia*, 512 Pa. 509, 517 A.2d 956 (1986) and *Commonwealth v. Galloway*, 525 Pa. 12, 574 A.2d 1045 (1990).

In *Carsia*, the Commonwealth attempted to argue that the Commonwealth Attorneys Act was but one source of the authority of the OAG (to prosecute). However, the Pennsylvania Supreme Court specifically rejected this argument in its opinion. Following its decision in *Carsia*, the Pennsylvania Supreme Court specifically addressed the issue of the authority of an OAG/BCI agent to arrest in the case of *Commonwealth v. Galloway*, 525 Pa. 12, 574 A.2d 1045 (1990) as follows, in pertinent part:

[W]e point out first that under Pa.R.Crim.P. 3(l) and (o), a clear distinction is drawn between a "law enforcement officer" and a "police officer":

(1) Law Enforcement Officer is any person who is by law given the power to enforce the law when acting within the scope of that person's employment.

(2) Police Officer is any person who is by law given the power to arrest when acting within the scope of the person's employment.

Second, under the Commonwealth Attorney's Act, Act of October 15, 1980, P.L. 950, No. 164, §101, *et seq.*, 71 P.S. §732.101 *et seq.* (hereinafter referred to as "Act"), the intent of the General Assembly was to limit the authority of that Office to investigate and prosecute **only** those criminal offenses specifically enumerated by the legislature.

* * * *

Our most recent interpretation of that statute held that the Act is the sole grant of authority to the Attorney General, and he "does not possess any inherent additional powers not therein set forth." See, *Commonwealth v. Carsia*, 512 Pa. 509, 511, 517 A.2d 956, 957 (1986), where we also concluded "that the power of the Attorney General to prosecute criminal matters is prescribed by section 205."

Having determined that this state officer is governed solely by the Act, we turn next to the Commonwealth's contention that "inherent in the authority to investigate and prosecute is the authority to arrest." (Brief, p.23). We agree that the Attorney General and his agents are empowered to apply for warrants and to make arrests in those instances where an investigation or prosecution is undertaken pursuant to §732-205. Obviously, that arrest power is designed to facilitate the investigative and prosecutorial aims of the Attorney General's office. But the power is limited thereby, and we will not read the statute to expand the scope of that power beyond the bounds of the legislative intent underlying it. The specific issue to be decided here is whether those arrest powers, invested in a "law enforcement" officer for purposes of investigating and prosecuting offenses listed in §732-205, are also of a general nature in the same sense by which municipal police officers and the State Police are authorized by statute to arrest as "police officers." Neither the language of the Act itself, its legislative history, nor case law convinces us that there is any reasonable interpretation of the Act which allows the Attorney General to arrest for offenses outside of those contemplated by the primary purpose behind the statute. The power of arrest under the Act is limited to those actions which fall within the "scope of employment" as defined and circumscribed by the specific offenses in §732-205. The Attorney General is a "law enforcement officer" and not a "police officer."

* * * *

Commonwealth v. Galloway, 525 Pa. 12, 574 A.2d 1047-1048.

The clear import of these cases is that criminal investigative agents of the OAG are not "police officers" as defined in the Rules of Criminal Procedure. Rather, they are "law enforcement officers" whose investigative/arrest authority stems from the Commonwealth Attorneys Act and the other statutes referenced herein.

9. Allegheny County Police Analysis.⁷¹

The act of July 28, 1953 (P.L. 723, No. 230), Sections 1501 to 1525 (16 P.S. 4501 to 4525), the Second Class County Code, authorizes the Allegheny County Commissioners to employ police officers with full warrantless arrest powers, including arrests under the Vehicle Code, other powers "conferred by law upon members of the police force of cities of the first class," the powers of constables, and other powers of service of process. The act also:

- (1) Creates a civil service commission with jurisdiction over hires and other employment actions.
- (2) Includes provisions on testing, promotion, probationary period, physical examinations, vacation and sick leave, reductions in force complement, and discrimination.
- (3) Includes provisions comparable to the Heart and Lung Act concerning temporary disability, including receipt of full salary, full county compensation for medical expenses, and Workers' Compensation offset. (The Heart and Lung Act itself includes in its coverage "any policeman . . . of any county . . ." (53 P.S. 637).)

Practice

The Allegheny County Department of Public Safety Services, a force of about 233 full-time officers, is assigned to patrol the county parks and the county airport, and does some law enforcement under contract to the county housing authority. The Department is headed by a Director of Safety Services, who reports to the County Manager and is responsible to the County Commissioners. The Department does not provide courthouse security, nor does it do general patrols within the County or on County roads (Allegheny County, unlike most counties in the Commonwealth, has a system of county roads).

About a third of the officer complement forms a detective branch within the department that provides investigative services to all but five of the municipalities within the county, a service that the Department views as one of its most significant functions. It provides no other direct service to municipalities, although occasionally they will assist a municipality on request.

Other Statutes

The Allegheny County police officers are organized under the collective bargaining provisions of Act 111, and fall under the training provisions of the Municipal Police Officers' Education and Training Act, including its salary reimbursement provisions.

⁷¹Prepared by Douglas E. Hill, County Commissioners Association of Pennsylvania, March 22, 1998.

10. County Park Police Analysis.⁷²

The acts of August 9, 1955 (P.L. 323, No. 130), Sections 2511 and 2512 (16 P.S. 2511 and 2512), the County Code, and July 28, 1953 (P.L. 723, No. 230), Sections 3033 and 3034 (16 P.S. 6033 and 6034), the Second Class County Code, provide the following:

- (1) Permits commissioners to establish park police, and
- (2) Makes park police responsible for the enforcement of rules of the park, with power to make warrantless arrest of any offender.

No provisions are included relating to method of hire, civil service, training, or any other comparable matter contained under other "police" statutes.

Practice

Park police forces are typically created by larger counties. The title of the department varies among counties, e.g. "County Park Rangers". Arrest policies vary; "arrest", particularly of Vehicle Code violations, is often in the form of detention pending arrival of a municipal or state police officer.

Other Statutes

Applicability of labor laws is based on the fact circumstances of the individual department, with some ruled under Act 111 (see *In re Bucks County Park Rangers*, 8 Pa. D. & C.3d 537, 1978) and others under Act 195 (see *Bilbow v. Delaware County*, 1 Pa. D. & C.3d 141, 1976).

Park police are included by definition under the Heart and Lung Act (53 P.S. 637).

Members of the park police department of any county of the third class are included in definition of "peace officer" under the Crimes Code (18 Pa.C.S.A. 501).

Lang v. Delaware County (88 Pa.Cmwlth. 452, 490 A.2d 20 (1985)) indicates that a county park police member, even though confined to a specialized law enforcement task and limited to making sight arrests for minor offenses, is a "peace officer" for the purposes of the Law Enforcement Officer Death Benefit Act.

There is a question whether the *Lang* decision extends the applicability of the Crimes Code definition (18 Pa.C.S. 501) beyond park police of counties of the third class. The *Lang* decision places park police in general under the Law Enforcement Officer Death Benefit Act's definition, which itself specifically cites the "peace officer" definition of the Crimes Code.

⁷²Prepared by Douglas E. Hill, County Commissioners Association of Pennsylvania, March 22, 1998.

County park police do not fall under the training provisions of the Municipal Police Officers' Education and Training Act, but may take courses by county purchase of an "admission ticket". Attendance on this basis does not lead to certification.

11. Powers and Responsibilities of Detectives Working under the Jurisdiction of the District Attorney's Office.⁷³

The appointment, responsibilities, and authority of detectives working under the jurisdiction of the District Attorney's Office is governed by statute. The statutes are classified according to the class of the county.

RELEVANT STATUTES

First Class Counties

In counties of the first class, the following statutes govern the appointment of county detectives:

16 Pa.C.S. §7741 Appointment; powers and duties

In each and every county of the first class of this Commonwealth, the district attorney may appoint a chief county detective, an assistant chief county detective, and special county detectives not exceeding twenty in number, whose duties it shall be to investigate and make report to the district attorney as to the conduct in the office of magistrates, constables, deputy constables, and other officers connected with the administration of criminal justice; to make such investigation and endeavor to obtain such evidence as may be required by the district attorney in any criminal case; and perform such other duties as the district attorney may direct. Said detectives shall be general police officers, and shall have all powers now conferred on constables by existing laws of this Commonwealth so far as they relate to crimes or criminal procedure.

***Please note that Philadelphia does not follow all of the procedures set forth in the above statute. The Chief County Detective of Philadelphia is appointed by the District Attorney. The other detectives hired within this county are hired pursuant to the Civil Service Act.

Second Class Counties

16 Pa.C.S. §4440 Appointment; duties and compensation of county detectives

(a) The district attorney may appoint one chief county detective, an assistant chief county detective, and as many county detectives, sergeant, special county detectives and junior county detectives as the salary board shall fix.

(b) County detectives shall at all times be subject to the orders of the district attorney, and shall investigate and make report to the district attorney as to the conduct in the office of magistrates,

⁷³Prepared by A. Anthony Sarcione, Esq., Pennsylvania District Attorney's Association.

constables, deputy constables and other officers connected with the administration of criminal justice, to make investigations, and endeavor to obtain such evidence as may be required by the district attorney in any criminal case, and perform such other duties as the district attorney may direct. Said detectives shall be general police officers and shall have all powers now conferred on constables by existing laws of this Commonwealth, so far as they relate to crime or criminal procedure, and they shall serve subpoenas in cases in which the Commonwealth is a party in a court of record.

(c) Said chief county detective, assistant chief county detective, county detectives, sergeant, special county detectives and junior county detectives shall not be entitled to receive any fees whatsoever, but shall each receive such a salary as shall be fixed by the salary board, together with necessary traveling expenses, which said salary and expenses, having been verified by affidavit of the chief county detective, assistant chief county detective, county detective, sergeant, special county detective or junior county detective incurring the same, and approved by the district attorney, shall be paid out of the treasury of the county, on a certificate issued by the district attorney directed to the controller of the county, who shall order warrants for said amounts according to law.

16 Pa.C.S. §4441 Appointment of special detective with approval of court

The district attorney of the county may, with the approval of the salary board, whenever the court of quarter sessions and district attorney may deem it necessary for a particular and temporary assignment, appoint a special detective, whose duty it shall be to assist in obtaining such evidence as shall be directed by the district attorney for the Commonwealth, and perform such other duties as the court may direct. He shall be allowed expenses necessarily and actually incurred in the performance of his duties.

Such special detective officer shall be a general police officer and shall have all the powers that are conferred on constables by the existing laws of this Commonwealth, so far as they relate to crimes or criminal procedure.

Counties of the Third Through Eighth Class

16 Pa.C.S. §1440 Appointment; Duties and Compensation of County Detectives

(a) In counties of the third and fourth classes, the district attorney may appoint one chief county detective, one assistant county detective and such other county detectives as the salary board may authorize.

(b) In counties of the fifth, sixth, seventh and eighth classes, the district attorney may appoint one chief county detective and such other county detectives as the salary board may authorize.

(c) County detectives shall, at all times, be subject to the orders of the district attorney, and shall investigate and make reports to him as to the conduct in office of magistrates, constables,

deputy constables and other officers connected with the administration of criminal law, shall make investigations and endeavor to obtain evidence required by the district attorney in criminal cases, and shall perform such other duties as the district attorney may direct.

(d) County detectives shall be general police officers and shall have the powers conferred on constables by the laws of this Commonwealth, so far as they relate to criminal law and procedure.

(e) County detectives of every grade and rank, in addition to their annual salary, shall be allowed their expenses actually and necessarily incurred in the performance of their duties. Such salaries and expenses shall be paid by the county as provided by law. No county detective shall be entitled to any fee whatsoever.

16 Pa.C.S. §1441 Appointment of Special Detective with Approval of Court

The district attorney of any county may, with the approval of the salary board, whenever the court of quarter sessions and district attorney may deem it necessary for a particular and temporary assignment, appoint a special detective, whose duty it shall be to assist in obtaining such evidence as shall be directed by the district attorney for the Commonwealth, and perform such other duties as the court may direct. He shall be allowed expenses necessary and actually incurred in the performance of his duties.

Such special detective officer shall be a general police officer and shall have all the powers that are conferred on constables by the existing laws of this Commonwealth, so far as they relate to crimes or criminal procedure.

Training Requirements

Detectives working under the jurisdiction of the District Attorney's Office must comply with the training requirements as set forth in 53 Pa.C.S. §§2161-2171.

53 Pa.C.S. §2161 establishes the Municipal Police Officers' Education and Training Program, which is administered by the Pennsylvania State Police. 53 Pa.C.S. §2164 establishes the Municipal Police Officers' Education and Training Commission, which manages the educational program and provides certifications to those officers who fulfill the requirements. 53 Pa.C.S. §2167 dictates which individuals must obtain the certification.

Case Law Discussion

The Authority and Powers of County Detectives

Throughout the years, the authority and powers of arrest of county detectives have been challenged in the court system. The Supreme Court and Superior Court of Pennsylvania have examined the issue and determined that the legislative provisions and relevant case law express a clear intent to classify county detectives as police officers who possess general police power to enforce the laws of the

Commonwealth. *Commonwealth v. Frombach*, 420 Pa. Super. 498, 617 A.2d 15 (1992). Furthermore, county detectives are not restricted to the powers bestowed upon constables, but possess the powers of both general police officers and constables. *Commonwealth v. Dieterick*, 429 Pa. Super. 180, 631 A.2d 1347, appeal denied 645 A.2d 1312 (1993).

Conclusion

Thus, a review of the applicable statutory authority and case law indicates that county detectives possess the same powers of arrest as police officers and are subject to the training requirements imposed on police officers. County detectives must comply with the training requirements and receive the proper certification credentials from the Municipal Police Officers' Education and Training Commission.

12. Municipal Authority Police, Housing Authority Police, and Port Authority Police.⁷⁴

Municipal Authorities:

The act of May 2, 1945 (P.L. 882, No. 164), known as the Municipality Authorities Act of 1945, was amended by the act of January 2, 1973 (P.L. 1740, No. 375), to add a new subsection to Section 4 B, granting an additional power to municipal authorities as follows:

“(v) To appoint police officers who shall have the same rights as other peace officers in the Commonwealth with respect to the property of the Authority.”

(Emphasis supplied.)

In the March 1974 edition of the “Pennsylvanian” magazine, in an article by William Markus, Esq., entitled “Policemen Appointed By Municipal Authorities” (reprinted by the Pennsylvania Municipal Authorities Association in the 1987 Revised Edition of The Best of Markus, p. 123), the author makes several comments about municipal authority police:

[A]uthority police, in the opinion of the writer, differ from municipal police officers and are more limited in their powers.

* * *

[T]he only specification regarding the [authority] police officer is that he shall have the same rights as other peace officers. These rights are only with respect to the property of the authority.

* * *

This makes the authority of the policeman for a municipality [sic] authority limited. It would require a breach of the peace of some nature in relationship to the property

⁷⁴Prepared by Patrick F. Kielty, Esq., Local Government Commission.

of the authority before appointed [authority] policeman could take any action. He can make arrest for violations of the law of the state or municipality in relation to authority property. Any violation which he witnesses could be the grounds for immediate arrest.

A 1982 amendment included municipal authority policemen within the definition of "privately employed agents," as set forth in the Lethal Weapons Training Act (Act 235 of 1974). The statutory definition of "Privately employed agents" includes "any person employed for the purpose of providing watch guard, protective patrol, detective or criminal investigative services either for another for a fee or for his employer. Privately employed agents do not include local, State, or Federal Government employees or those police officers commissioned by the Governor under the act of February 27, 1865 (P.L.225, No.228) [repealed and now set forth in 22 Pa.C.S. §3301 (relating to railroad and street railway police)]. The term shall include a police officer of a municipal authority." (Emphasis supplied.)

Besides the Lethal Weapons Training Act, other statutory provisions addressing "private police" also may be useful in categorizing or distinguishing municipal authority police. For example, in 22 Pa.C.S. §501, nonprofit corporations that maintain buildings and grounds open to the public are authorized to appoint, with court approval, individuals who, like municipal authority police, "possess and exercise all the powers of a police officer in this Commonwealth, in and upon, and in the immediate and adjacent vicinity of, the property of the corporation." Also, another category of "private police" which may be analogous to municipal authority police is that of "industrial police." Act 221 of 1937 defines "industrial police" as including "a police officer, or a person employed in any such capacity, for the protection of its property by the owner or operator of any colliery, furnace, rolling mill, water company, water supply company, water power company, electric light company, electric power company, electric transmission company, mineral, mining or quarrying company, or express company." This definition limits the purpose of industrial police to the protection of specific property, and, in this regard, they would be similar to police appointed by a municipal authority. It is unclear, however, whether industrial police have the same rights as other peace officers in the Commonwealth with respect to protecting the property of their employer as do police appointed by a municipal authority.

Housing Authority Police

Municipal authority police may be compared not only with the foregoing "private police" but also with housing authority police. This housing authority analogy seems particularly apt with regard to the stated powers of the various police. As mentioned, municipal authority police are given "the same rights as other peace officers in the Commonwealth with respect to the property of the Authority." Similarly, the "Housing Authority Law" (Act 265 of 1937), section 10(ee),(ff), provides, with regard to "police officers" of a housing authority in a second class city, that they "...shall have the same rights, powers and duties as other peace officers in the Commonwealth with respect to the property and enforcing order on and adjacent to the grounds and buildings of the Authority...", and with regard to "security officers" of a housing authority in a first class city, that they "shall have the same rights, powers and duties as police officers in the Commonwealth in and upon the grounds and buildings of the Authority and in instances of hot pursuit within the boundaries of the city of the first class and...shall be authorized to arrest persons for the commission of any offense...."

It should be noted that police officers appointed by a municipal authority are not included in the definition of "police officer" contained in 53 Pa.C.S. §2162, referencing those who are required to undergo the training as specified by the Municipal Police Officers' Education and Training Commission, in accordance with 53 Pa.C.S. §2167. In this regard, municipal authority police can be distinguished from the housing authority police. The law regarding municipal police training specifically includes a security officer in a first class city housing authority within the definition of police officer. 53 Pa.C.S. §2162. Moreover, the requirement for municipal police training is also set forth in the "Housing Authority Law" (Act 265 of 1937), section 10(ee),(ff), as being applicable both to "police officers" of a housing authority in a second class city as well as to "security officers" of a housing authority in a first class city.

Municipal authority police are granted the same powers as police officers generally, but only to the extent that exercise of this authority relates to property of the authority. Thus, not only is their power limited by the purpose which it is to serve, i.e., the protection of authority property, it also can be argued that the jurisdiction of municipal authority police is to be limited or restricted to the location of the authority's property. Please note, however, that, as discussed below, port authority police in a county of the second class, as well as transit police, appear to have broad geographical jurisdiction when needed. See 22 Pa.C.S. §3303(a).

Port Authorities:

Among other types of restricted jurisdiction police are those of port authorities. For example, the law regarding the Delaware River Port Authority (created pursuant to an interstate compact) is very explicit as to its police. It authorizes the appointment by the Authority of police officers "to keep in safety and preserve order upon the bridges and tunnels and approaches thereto, and upon the rapid transit systems, ferries, facilities and other property as the Delaware River Port Authority or such subsidiary corporations does or may hereafter own, lease or operate." 36 P.S. §3504.1. This same provision provides that "[t]he police officers so appointed shall have the power and authority to make arrests for any crimes, misdemeanors, and offenses committed under the laws of the State of New Jersey or the Commonwealth of Pennsylvania upon the bridges or within the tunnels or approaches thereto, on the rapid transit systems, ferries, facilities or other property owned, leased or operated by the Delaware River Port Authority or such subsidiary corporations, for disorder or breach of the peace, or for violations of any lawful regulation which may be adopted by the Delaware River Port Authority, or such subsidiary corporations." Additional enumerated powers include the power "to make arrests or issue citations for evasion or attempts to evade the payment of tolls, fares or other charges which may be fixed or may have been fixed for the use of such bridge, tunnel, rapid transit system, or ferry, facility or other property owned, leased or operated by the Delaware River Port Authority or such subsidiary corporations." Moreover, "while acting within any other areas of the port district, police officers appointed by the Delaware River Port Authority or such subsidiary corporations shall have all of the powers, including the right to carry firearms while on duty, and all of the immunities conferred by law on police officers or municipal police officers in the enforcement of the laws of the State of New Jersey and the Commonwealth of Pennsylvania...." Also, there are special training and requalification requirements for police officers of the Delaware River Port Authority, as set forth in 36 P.S. §3504.1a.

The Second Class County Port Authority Act (Act 465 of 1955) and other laws relating to intrastate ports, such as the Philadelphia Regional Port Authority Act (Act 50 of 1989), the Port of Pittsburgh Commission Act (Act 133 of 1992), and the Third Class City Port Authority Act (Act 298 of 1972), contain no specific authority for appointing port authority police. Nevertheless, in the provisions of law relating to railroad and street railway police, there is clear authority for a second class county port authority to apply for the appointment of police:

A corporation owning or operating a railroad or street passenger railway in this Commonwealth, including also an authority existing pursuant to Article III of the act of January 22, 1968 (P.L.42, No.8), known as the "Pennsylvania Urban Mass Transportation Law," for its entire transportation system, and including an authority existing pursuant to the act of April 6, 1956 (1955 P.L.1414, No.465), known as the "Second Class County Port Authority Act." may apply to the Commissioner of the Pennsylvania State Police upon such forms as he shall prescribe for the appointment of specific persons as the applicant may designate to act as railroad or street railway policemen for it. The commissioner, after such investigation as he shall deem necessary, shall recommend to the Governor the commissioning of such persons as railroad or street railway policemen or advise the applicant of their adverse recommendations and the reasons therefor. The Governor, upon such application and recommendation, may appoint such persons to be railroad or street railway policemen, and shall issue to such persons so appointed a commission to act as such policemen.

22 Pa.C.S. §3301. (Emphasis supplied.)

The power of second class county port authority police, like transit and railroad police, although apparently limited to the business of the authority, is jurisdictionally broad. By statute, they are to "possess and exercise all the powers of a police officer in the City of Philadelphia, in and upon, and in the immediate and adjacent vicinity of, the property of the corporate authority or elsewhere within this Commonwealth while engaged in the discharge of their duties in pursuit of railroad, street railway or transportation system business." 22 Pa.C.S. §3303(a). (Emphasis supplied.) With regard to training, they are similar to municipal police officers. A second class county port authority police officer, as a railroad and street railway police officer, must "successfully complete the same course of instruction required for municipal police officers by the act of June 18, 1974 (P.L.359, No.120), referred to as the Municipal Police Officers' Education and Training Law." 22 Pa.C.S. §3303(d).

13. **Park Rangers and State Forest Officers**⁷⁵

The act of June 28, 1995 (P.L. 89, No. 18)⁷⁶, known as the Conservation and Natural Resources Act, besides creating the Department of Conservation and Natural Resources (department), provides for officers having various police and law enforcement powers with respect to State parks and State forests.

⁷⁵Prepared by Patrick F. Kielty, Esq., Local Government Commission.

⁷⁶71 P.S. §1340.101 et seq.

Pursuant to §303(a)(7)⁷⁷, relating to State parks, the department has the following authority:

- (7) To appoint and commission persons to preserve order in the State parks, which persons shall have all of the following powers:
 - (i) To make arrests without warrant for all violations of the law which they may witness and to serve and execute warrants issued by the proper authorities. However, in cases of offenses for violation of any of the provisions of 75 Pa.C.S. (relating to vehicles), the power to make arrests without warrant shall be limited to cases where the offense is designated a felony or a misdemeanor or in cases causing or contributing to an accident resulting in injury or death to any person.
 - (ii) To have all the powers and prerogatives conferred by law upon members of the police force of cities of the first class.
 - (iii) To have all the powers and prerogatives conferred by law upon constables of this Commonwealth.
 - (iv) To serve subpoenas issued for any examination, investigation or trial under any law of this Commonwealth.
 - (v) When authorized by the secretary or his designee, to exercise all of the foregoing powers on State forest lands or in other areas administered by the department.⁷⁸

Scant case law was found interpreting the law enforcement authority of State park rangers. However, in Commonwealth v. Commonwealth, Pennsylvania Labor Relations Board,⁷⁹ the Commonwealth Court held that State park rangers are “police” for purposes of the Policemen and Firemen Collective Bargaining Act,⁸⁰ because they were found to have legislative authority to act as police in State parks and did, in fact, act as police, notwithstanding a directive from Department of Environmental Resources that rangers should not have a “police officer mentality.”

The court found that park rangers act as police, performing traditional police functions such as issuing citations and making arrests for violations of the Crimes Code, the Vehicle Code, and the Fish and Game Laws and park rules and regulations, issuing Miranda warnings, filing criminal complaints and affidavits of probable cause for arrest with local magistrates, fingerprinting and photographing individuals that they have arrested, and have been working and/or engaging in joint operations with the Pennsylvania State Police, local police departments, the FBI, and the U.S. Customs Service.

⁷⁷71 P.S. §1340.303(a)(7).

⁷⁸Similar provisions previously in effect under the former Department of Environmental Resources were set forth in the act of April 9, 1929 (P.L. 177, No. 175), as amended, known as the Administrative Code, Article XIX-A, §1906-A (71 P.S. §510-6).

⁷⁹125 Pa. Cmwlth. 549, 558 A.2d 581 (1989).

⁸⁰The act of June 24, 1968 (P.L. 237, No. 111), as amended, 43 P.S. §§217.1-217.10.

With regard to State forests, §302(c)⁸¹ specifically authorizes the department to appoint officers to protect the State forests and who, at the discretion of the department Secretary, may exercise powers similar to those of the State park rangers, as set forth above.

(c) Authority of officers.—The persons employed, under the provisions of this act, by the department for the protection of the State parks and State forests shall after taking the proper official oath before the clerk of the court of common pleas of any county of this Commonwealth be vested with the same powers as are by existing laws conferred upon constables and other peace officers, to arrest on view, without first procuring a warrant therefor, persons detected by them in the act of trespassing upon any forest or timber land within this Commonwealth, under such circumstances as to warrant the reasonable suspicion that such person or persons have committed, are committing or are about to commit any offense or offenses against any of the laws now enacted or hereafter to be enacted for the protection of forests and timber lands. The officers shall likewise be vested with similar powers of arrest in the case of offenses against the laws or rules and regulations enacted or established, or to be enacted or established, for the protection of the State forests or for the protection of the fish and game contained therein. However, the above-mentioned rules and regulations shall have been previously conspicuously posted upon the State forests. The officers shall further be empowered and it shall be their duty, immediately upon any such arrest to take and convey the offender or offenders before a justice of the peace or other magistrate having jurisdiction, for hearing and trial or other due process of law. The powers conferred in this subsection upon forest officers shall extend only to the case of offenses committed upon the State forests and lands adjacent thereto, and the powers conferred in this subsection upon the officers shall not be exercised beyond the limits thereof, except where necessary for the purpose of pursuing and arresting such offenders, or of conveying them into the proper legal custody for punishment as aforesaid, and except where those officers are specially commissioned by the department as provided in this section. The department may at the discretion of the secretary or his designee specially commission certain forest officers to preserve order in the State parks and State forests, with all of the powers conferred on park officers by section 303(a)(7). (Emphasis supplied.)⁸²

In discussions with department personnel,⁸³ differences between State park rangers and State forest officers were emphasized. For example, with regard to training, park rangers have received full Act 120 training⁸⁴ as a condition of their collective bargaining contract. State forest officers receive less than the full Act 120 training, because their enforcement powers are more limited than those of

⁸¹71 P.S. §1340.302(c).

⁸²Similar provisions previously in effect under the former Department of Environmental Resources were set forth in the act of April 9, 1929 (P.L. 177, No. 175), as amended, known as The Administrative Code of 1929, Article XIX-A, §1910-A (71 P.S. §510-10).

⁸³Eugene V. Giza of the Department of Conservation and Natural Resources.

⁸⁴The act of December 19, 1996 (P.L. 1158, No. 177) (53 Pa.C.S. §§2161-2171) repealed and replaced the Municipal Police Officers' Education and Training Act (formerly 53 P.S. §740 et seq.), that was commonly referred to as "Act 120." For purposes of this report, this new act will be referred to by the name of its predecessor, "Act 120."

State park rangers. A new classification of State forest enforcement officers has recently been created within the department. These officers are classified as forest rangers and receive the full Act 120 training. It is anticipated that the Secretary of the department will, under the authority granted by Section 302(c) of the Conservation and Natural Resources Act, confer upon forest rangers the same powers conferred on State park rangers by Section 303(a)(7).

**COMPARISON OF TRAINING AND ARREST POWERS OF
SELECTED LAW ENFORCEMENT PERSONNEL**

				ARREST POWERS (42 PACS, CHAPTER 89)	
Group Affiliation	Relevant Citation	Training Hours of Basic Training	Annual In-Service Training	Vehicle Code	Crimes Code
Municipal Police	53 PaCS, Chapter 21 [formerly known as Act 120]	520 hours (will increase to 800 hours)	◆12 hours/yr. (classroom) ◆Additional firearms & CPR recertification also required	Yes	Yes
Deputy Sheriffs	1984 P.L. 3, No. 2 1976 P.L. 475, No. 121 42 PaCS §21115	160 hours (will increase pursuant to Act 10 of 1998)	16-20 hours every 2 years	Yes - if deputy sheriffs are trained under 53 PaCS, Chapter 21. See <u>Kline v. Dept. of Transp.</u> , 706 A.2d 909 (1998).	Yes - see for example <u>Cmwlth. v. Lyons</u> , 555 A.2d 920 (1989).
Game Enforcement Officers (WCOs) Full-Time	34 PaCS §901 et seq. 1976 P.L. 475, No. 121	1,520 hours (includes 478 hours of law enforcement training)	Minimum of 27 hours & attendance at district meetings.	Limited - if offense occurs within WCO's presence and the WCO is acting within scope of duties under Title 34. See <u>Cmwlth. v. Carlson</u> , 705 A.2d 468 (1998).	Limited - if offense occurs within WCO's presence and the WCO is acting within scope of duties under Title 34. See <u>Cmwlth. v. Carlson</u> , 705 A.2d 468 (1998).
Fish & Boat Enforcement Officers (Full-Time)	30 PaCS §902 et seq. 1976 P.L. 475, No. 121	1504 hours (includes municipal police training under 53 PaCS, Chapter 21)	Minimum of 40 hours	Limited - Waterways Conservation Officers are authorized when acting within the scope of their employment to pursue and arrest a person suspected of summary offenses, felonies and misdemeanors. May, however, enforce Vehicle Code on Fish & Boat Commission property. <u>American Federation of State, County & Municipal Employees v. PA Labor Relations Board</u> , 593 A.2d 4 (1991).	Limited - when acting within scope of employment, a waterways conservation officer may pursue and arrest a person suspected of violating the Crimes Code or another offense classified as a summary offense, misdemeanor or felony. <u>American Federation of State, County & Municipal Employees v. PA Labor Relations Board</u> , 593 A.2d 4 (1991).

				ARREST POWERS (42 PACS, CHAPTER 89)	
Group Affiliation	Relevant Citation	Training Hours of Basic Training	Annual In-Service Training	Vehicle Code	Crimes Code
Constables	1917 P.L. 1158, No. 401 As amended by 1994 P.L. 265, No. 44 1976 P.L. 475, No. 121	80 hours Mandated for processing judicial services	◆Maximum 40 hours ◆20 hours mandatory to maintain certification ◆20 additional hours for firearms recertification (optional)	No - see <u>Cmwlth. v. Roose</u> , No. 0058 WD Appeal Docket 1997. J-64-98.	Yes - if adequately trained. See <u>Cmwlth. v. Taylor</u> , 677 A.2d 846 (1996).
Probation & Parole Officers ◆State	1994 P.L. 861, No. 323	97 hours and 19.5 hours Domestic Violence Protocol	Mandatory 40 hours. (1st yr. - 40 additional hours of firearms training. There after 24 additional hours of firearms training to maintain qualification).	No - considered peace officer. Arrest powers limited to violation of parole.	No - considered peace officer. Arrest powers limited to violation of parole.
◆County	1963 P.L. 521, No. 277	Minimum 42 hours	To be implemented in: 1998 - annual qualification on firearms training; 1999 - classroom & firing range.	No - considered peace officer. Arrest powers limited to violation of parole.	No - considered peace officer. Arrest powers limited to violation of parole.
Campus Police ◆State Owned	1929 P.L. 177, No. 175 §2416	Training as approved by Dept. of Education. Policy of SSHE & Dept. of Education is to have police trained under 53 PaCS, Chapter 21.	See above for municipal police.	Yes - on campus and in limited cases of hot pursuit. Must be trained under 53 PaCS, Chapter 21.	Yes - on campus and in limited cases of hot pursuit. Must be trained under 53 PaCS, Chapter 21.
◆State Related	1929 P.L. 177, No. 175 §2416.1	If certified by Attorney General as a "Criminal justice agency," they are certified under 53 PaCS, Chapter 21.	See above for municipal police.	Yes - on campus and off campus if training completed under 53 PaCS, Chapter 21.	Yes - on campus and off campus if training completed under 53 PaCS, Chapter 21.

				ARREST POWERS (42 PACS, CHAPTER 89)	
Group Affiliation	Relevant Citation	Training Hours of Basic Training	Annual In-Service Training	Vehicle Code	Crimes Code
Office of Attorney General ◆Bureau of Criminal Investigation	1980 P.L. 950, No. 164	Minimum hiring standards must be met initially: 7 weeks.	2 weeks & firearms requalification.	No - considered law enforcement officers - not police officers. See <u>Cmwlth. v. Galloway</u> , 574 A.2d 1045 (1990).	No - considered law enforcement officers - not police officers. See <u>Cmwlth. v. Galloway</u> , 574 A.2d 1045 (1990).
◆Bureau of Narcotics Investigation & Drug Control		Minimum hiring standards must be met initially: 7 weeks.	2 weeks & firearms requalification.	No - see above.	No - see above.
Allegheny County Police	1953 P.L. 723, No. 230 §§1501-1525	Trained under 53 PaCS, Chapter 21.	Meet requirements of 53 PaCS, Chapter 21.	Yes	Yes
County Park Police	1953 P.L. 723, No. 230 §§3033-3034 1955 P.L. 323, No. 130 §§2511-2512	Take courses under 53 PaCS, Chapter 21, but it does not lead to certification.	May take in-service training under 53 PaCS, Chapter 21.	No - appear only to enforce park rules.	No - appear only to enforce park rules.
Capitol Police	1929 P.L. 177, No. 175 §2416	Trained (but not certified) under 53 PaCS, Chapter 21.	◆12 hours/yr. ◆First aid and CPR ◆Firearms recertification	Yes	Yes

Group Affiliation	Relevant Citation	Training Hours of Basic Training	Annual In-Service Training	ARREST POWERS (42 PACS, CHAPTER 89)	
				Vehicle Code	Crimes Code
Conservation and Natural Resource Officers ♦State Park Rangers	1995 P.L. 89, No. 18 §303(a)(7)	Trained under 53 PaCS, Chapter 21.	12 hours/yr. classroom 4 hours/yr. visitor service CPR & First aid Baton (PR-24) recertification Firearms recertification OC pepper spray review	Yes - warrantless arrests limited to felonies or misdemeanors or where the offense causes or contributes to accident resulting in injury or death. May enforce provisions of Chapter 77 of 75 PaCS relating to snowmobiles and ATVs.	Yes
♦State Forest Officers.	1995 P.L. 89, No. 18 §302(c)	Trained under 53 PaCS, Chapter 21.	12 hours/yr. classroom 4 hours/yr. visitor service CPR & First aid	May enforce provisions of Chapter 77 of 75 PaCS relating to snowmobiles and ATVs.	Yes - to the extent that laws were enacted for the protection of state forests and timberlands and fish and game therein.
♦State Forest Rangers	1995 P.L. 89, No. 18 §302(c)	Trained under 53 PaCS, Chapter 21.	12 hours/yr. classroom 4 hours/yr. visitor service CPR & First aid Baton (ASP) recertification OC pepper spray review	When commissioned by Secretary of DCNR, will have same arrest powers as State Park Rangers.	Yes - when commissioned by Secretary of DCNR.
District Attorney ♦County Detectives	1919 P.L. 369, No. 180 1953 P.L. 723, No. 230 §1441 1955 P.L. 323, No. 130 §1440	Trained under 53 PaCS, Chapter 21.	Meet requirements of 53 PaCS, Chapter 21.	Yes - also see <u>Cmwlth. v Frombach</u> , 617 A.2d 15 (1992).	Yes - also see <u>Cmwlth. v. Dietterick</u> , 631 A.2d 1347 (1993).

				ARREST POWERS (42 PACS, CHAPTER 89)	
Group Affiliation	Relevant Citation	Training Hours of Basic Training	Annual In-Service Training	Vehicle Code	Crimes Code
Municipal Authority Police ◆Generally	1945 P.L. 382, No. 164 §4B(v)	Lethal Weapons Training		No - considered "privately employed agents" on authority property.	No - considered "privately employed agents" on authority property.
◆Airport Police (other than Philadelphia and Allegheny Counties)	74 PaCS §§5903(a)(10), 5904	Trained under 53 PaCS, Chapter 21.	Meet requirements of 53 PaCS, Chapter 21.	Yes - on airport property.	Yes - on airport property.
Port Authority Police ◆Delaware River Port Authority	1957 P.L. 61, No. 34, §1	Reciprocity of training - NJ residents take courses in PA law and vice versa. No certification granted under 53 PaCS, Chapter 21.	Must comply with annual firearms training qualifications under 53 PaCS, Chapter 21.	Limited - possess police powers on bridges or within tunnels of the Port Authority.	Limited - possess police powers on bridges or within tunnels of the Port Authority.
◆Allegheny County Port Authority Police	22 PaCS §3303(a)	Trained under 53 PaCS, Chapter 21.	See above for municipal police.	Yes - possess same powers as a police officer of the City of Philadelphia. See <u>Cmwltb. v. Mundorf</u> , 699 A.2d 1299 (1997).	Yes - possess same powers as a police officer of the City of Philadelphia.
◆Southeastern PA Transportation Authority	22 PaCS §3303(a)	Trained under 53 PaCS, Chapter 21.	See above for municipal police.	Yes - possess same powers as a police officer of the City of Philadelphia.	Yes - possess same powers as a police officer of the City of Philadelphia.
Housing Authority Police ◆Pittsburgh	1937 P.L. 955, No. 265 §10(ee)	Trained under 53 PaCS, Chapter 21.	See above for municipal police.	Yes - with respect to property of the housing authority. See <u>Cmwltb. v. Brandt</u> , 691 A.2d 934 (1997).	Yes - with respect to property of the housing authority. See <u>Cmwltb. v. Brandt</u> , 691 A.2d 934 (1997).
◆Philadelphia	1937 P.L. 955, No. 265 §10(ff)	Trained under 53 PaCS, Chapter 21.	See above for municipal police.	Yes - with respect to property of the housing authority and in limited cases of hot pursuit.	Yes - with respect to the property of the housing authority and in limited cases of hot pursuit.

Prepared by the staff of the Local Government Commission.

IV. FOCUSING ON ALTERNATIVES

After spending considerable time reviewing the current duties, responsibilities, training requirements, and arrest powers of pertinent law enforcement officers, the Task Force began to concentrate on suggestions and recommendations for alternative and expanded policing that had been suggested at various times by previous legislative initiatives and by groups and associations impacted by the Governor's proposal to charge certain municipalities for State Police protection. The language in House Resolution 167 specified that the Task Force's final report should consider and incorporate, where appropriate, findings and conclusions prepared by other legislative, executive, governmental, or private agencies. That being the case, on July 15, 1998, a Special Subcommittee appointed by the Chairman of the House Resolution 167 Task Force, Senator Robert D. Robbins, began the process of considering, for recommendation to the full Task Force, those policing alternatives and possible solutions which had been presented by the Task Force Members during the past year. The objective of the Subcommittee was to develop broad policy objectives based upon the information submitted to the Task Force to that date which was to become the basis of research by Indiana University of Pennsylvania (IUP) and others which could possibly become recommendations made to the General Assembly. The charge to the Subcommittee was to be all-inclusive in that the considered objectives, either recommended by the Subcommittee for adoption by the Task Force or those which would be suggested to be rejected, would have a full hearing on the merits of each possible proposal.

The Subcommittee initially considered recommendations made by the Communities Organized for Fair Treatment of Municipalities (COFFTOM). COFFTOM was organized by those municipalities which would have been impacted by the Governor's budget proposal to assess those communities with a population with more than 9,000 which either currently did not have police departments or did not contract for police services, thus relying solely on the State Police for police protection. COFFTOM recommended that: (1) if a charge were to be levied, all municipalities pay a fair share of the cost to support protection by the State Police; (2) the Commonwealth should increase state funding levels to support local and regional police departments; and (3) the powers of the county sheriff be expanded to provide police service at the county level or a county or regional police option, separate from the sheriff's department, be created. In consideration of the first proposal, two approaches for developing a fair assessment were suggested as possibilities: first, assess only those municipalities not having their own local police departments; and second, assess all municipalities based upon a "services rendered" concept. After a lengthy discussion, the Subcommittee recommended that all COFFTOM proposals be submitted to the Task Force for consideration.

Representative Thomas A. Tangretti, a member of the Task Force, offered five policy recommendations to the Special Subcommittee. The first proposal was the establishment of a dedicated source of funding for purchases of structures, equipment, and vehicles by municipal police departments. This dedicated funding source could be financed by a 2% loan program such as that proposed in House Bill 249 of the 1997-98 Legislative Session. Representative Tangretti's second recommendation would apply \$25 fee to all criminal convictions (exclusive of traffic violations and misdemeanors of the third degree) to fund certain programs. These additional funds could be appropriated annually to local police departments. Seventy percent (70%) of the monies could be used for reimbursement of operational costs of police departments and the remaining thirty percent (30%) could be used for formation of

regional police departments. The third suggestion was the establishment of a single state agency to be a state advocate for municipal police and other law enforcement operations. The fourth submission was the creation of a standing or joint legislative committee to serve as a focal point within the Legislature for law enforcement and municipal police. Representative Tangretti advocated the creation of committees or Subcommittees within the House of Representatives or the Senate on local law enforcement and public safety. The third and fourth recommendations were the result of the same idea; i.e., that there has been a lack of advocacy at the state level for local police needs. The final recommendation was the exploration of establishing a statewide pension system for all law enforcement personnel in the Commonwealth. This pension system was envisioned to be similar to the Public School Employees Retirement System. Due to questions concerning the adequacy of a \$25 surcharge on criminal convictions and the impact such a surcharge would have on existing programs funded from similar surcharges, the Subcommittee recommended that no dollar amount be specified until the Task Force could more fully examine this issue. Subsequently, all five of the recommendations made by Representative Tangretti were submitted to the Task Force for consideration.

The Pennsylvania State Association of Township Supervisors (PSATS) submitted three recommendations, the first of which was to amend Act 111 of 1968, commonly referred to as the Policemen and Firemen Collective Bargaining Act, which provides for arbitration, to change the procedure for appointing and compensating the third arbitrator on a board of arbitration appointed to hear disputes between the municipality and the bargaining unit. Among other things, PSATS recommended that the cost of the third arbitrator, whose appointment must be agreed upon by both groups, be shared between the municipality and the union. Currently, the municipality is required to pay the cost of the third, neutral arbitrator. This proposal was not recommended by the Subcommittee since it was deemed divisive and outside the scope of the Task Force. The second recommendation pertained to funding for police services. Specifically, this suggestion was to create a dedicated municipal tax to support police services by amending the appropriate municipal codes to give municipalities the authority to levy a tax, similar to the fire tax, which would be used solely for the funding of municipal police services. A second source of funding suggested by PSATS was to increase the amount of fines imposed for violations of the Vehicle and Crimes Codes. These additional surcharges would be dedicated to funding municipal police departments throughout the Commonwealth. The third submission related to funding of police services was the establishment of a state loan program similar to the Volunteer Fire Company, Ambulance Service, and Rescue Squad Assistance Act, Act 208 of 1976, to allow municipalities to use low interest loans obtained through the program for the purchase of police equipment and facilities. The final recommendation offered by PSATS concerned the creation of a county police department outside the current elected office of sheriff which could be patterned after the current system in Allegheny County. Other than the recommendation relating to changes to Act 111, the Subcommittee unanimously decided to forward the PSATS recommendations to the Task Force.

The Senate Republican Policy Development and Research Office (PDRO) tendered five recommendations, the first of which was the establishment of a statewide municipal pension system. PDRO's second suggestion was to provide state business tax credits, similar to those existing under the Neighborhood Assistance Program, for contributions for establishing regional police departments. The third proposal offered by PDRO was the establishment of a dedicated funding source for regional police departments. This recommendation involved an increase in fees applied to all criminal convictions

(exclusive of minor traffic violations and misdemeanors of the third degree). The fourth recommendation of PDRO was to increase state pension aid for regional police departments by amending Act 205 of 1984, the Municipal Pension Plan Funding Standard and Recovery Act, to change the allocation formula of the insurance premiums tax in order to make more money available to regional police departments for pension purposes. PDRO's final proposal was to increase reimbursements for regional police departments for officer training under the law commonly referred to as the Municipal Police Education and Training Law, or Act 120, which created the Municipal Police Officers' Education and Training Commission. All of PDRO's proposals were forwarded by the Subcommittee to the full Task Force for consideration.

At this point, three recommendations that were proposed by the House Democratic Policy Committee's 1995 Task Force on Law Enforcement and Public Safety, chaired by Representative Tangretti, were discussed. Although later withdrawn from consideration by the Special Subcommittee, those proposals consisted of the following: (1) exploration of alternative means to allow municipal insurance to be obtained at reasonable rates; (2) provision of mandatory management training for police chiefs; and (3) authorization for the use of radar by local police. The latter item was considered to be outside the scope of the Task Force.

The Subcommittee next conducted a review of the findings and recommendations from the Legislative Budget and Finance Committee's (LBFC) 1996 report, "A Study of the Statutory Cap on the Pennsylvania State Police Complement." Although much of LBFC's report did not relate to local policing, the report does encourage greater use of the Shared Services Program, administered by the Department of Community and Economic Development. The Program is intended as an aid and incentive for local governments undertaking intermunicipal cooperative efforts. The Shared Services Program, as authorized by Act 78 of 1970, repealed and reenacted by Act 58 of 1994, has been utilized to combine police records administration, joint ownership of municipal equipment, shared data processing operations, and joint sign making. The 1998-99 State General Fund Budget appropriated \$900,000 for the Program. The Subcommittee unanimously voted to forward this proposal to the full Task Force for consideration.

The County Commissioners Association of Pennsylvania (CCAP) offered two submissions to the Subcommittee. The first proposal was the creation of countywide police departments by the county commissioners. CCAP's second recommendation was the provision of mechanisms for intermunicipal cooperation. It should be noted that CCAP stated its strong opposition to a county police department administered and under the policy direction of the county sheriff. CCAP believes that implementation of this concept would constitute bad public policy by placing such responsibilities under the authority of one elected county official who is not responsible for rendering decisions on county fiscal policy. The two findings of CCAP were forwarded to the full Task Force for its deliberation.

The Pennsylvania League of Cities and Municipalities (PLCM) offered several recommendations, none of which were supported by the Subcommittee. These included: (1) adoption of a policy promoting equal protection and nondiscrimination to discourage hate groups from disrupting the citizens and endangering the safety of citizens; (2) provision of mandatory police training, as well as funding for that mandate, by the Commonwealth; (3) promotion of vehicle signage, i.e., the placement of signs on vehicles that use propane, hydrogen, and other gases that are highly flammable in order that fire

and emergency assistance personnel would be aware of the type of propellant with which they are dealing. The consensus of the Subcommittee was that these objectives were outside the scope of the Task Force; furthermore, the Subcommittee suggested that these proposals be pursued by legislation as part of PLCM's legislative agenda.

Other miscellaneous recommendations were also considered. The first would have expanded the arrest powers of enforcement officers employed by the Game Commission and the Fish and Boat Commission to act as police officers, their current duties notwithstanding. This proposal was set aside inasmuch as the Subcommittee deemed it to be outside the scope of the Task Force. Concern was also raised that enlarging the duties of these officers would detract from their primary responsibilities, i.e., to enforce the Game and Wildlife Code and the Fish and Boat Code. The second issue was to provide for one uniform training program requiring certification for all local law enforcement officers providing local protection whether those officers are municipal police, deputy sheriffs, constables, county detectives, campus police, etc. The final recommendation was to either statutorily redefine the role of constables to vest them with full arrest powers, thus allowing them to enforce the Vehicle Code and the Crimes Code, or to restructure the office of the constable to authorize them solely to be officers of the court, such as service processors. The second and third objectives unanimously were forwarded to the full Task Force for consideration.

On September 16, 1998, and again on January 6, 1999, the full Task Force began an examination of the policy objectives which were reviewed by the Subcommittee. The Task Force initially disposed of those proposals that were recommended for rejection by the Subcommittee. Those recommendations were: (1) amendments to Act 111 to alter the procedure for appointing and compensating the third arbitrator on a board of arbitration since this issue was considered too divisive and outside the scope of the Task Force; (2) additional policy recommendations of the House Democratic Policy Committee's Task Force on Law Enforcement and Public Safety inasmuch as these recommendations were withdrawn by Representative Tangretti, who chaired the aforementioned Task Force; (3) recommendations submitted by the PLCM since some of the issues were deemed outside the scope of House Resolution 167 while others could be considered as a package of separate legislation by interested Members of the General Assembly; and (4) expansion of police powers of a myriad of local law enforcement personnel to act beyond the limits of their specific official duties, including enforcement officers in the employ of the Game and Fish and Boat Commissions.

In its recommendations, COFFTOM sought to recommend that if any charges were levied, an imposition of a fair assessment against all municipalities be levied for State Police protection. Two options were then considered by the Task Force: (1) to assess only those municipalities without police departments; or (2) to impose charges on all municipalities on a "services rendered concept." The Task Force deliberated the data that had previously been submitted by the Governor's Budget Office and the State Police in providing services to municipalities. It was decided that the "services rendered concept" was unworkable since the calculated cost of State Police protection indicated in a December 11, 1998, report of \$468.09 per incident was problematic inasmuch as "all incidents, even those of a similar nature, are not equal in terms of complexity or time and resource requirements." The State Police recognized that it did not have the means to accurately capture the time expended or the number of personnel and equipment committed to each incident. If the Task Force chose to select a "services

rendered concept," a new formula would need to be developed. After a lengthy discussion, the Task Force, while recognizing the Governor's prerogative to request the Legislature to enact requirements charging municipalities for State Police protection, overwhelmingly decided that the Task Force not consider this proposal but, rather, should concentrate on other viable options to provide or encourage alternative police protection services.

On March 25, 1999, the Task Force was presented with an outline of statutes, rules of procedure, and case law related to the relevant duties and responsibilities of various criminal justice professionals which permitted it to consider whether some statutory assignments should be realigned in an effort to make those law enforcement officials more efficient and accountable. These groups included municipal police, deputy sheriffs, constables, state and county probation and parole officers, campus police at state-owned and state-related universities, investigators of the Office of Attorney General's Bureau of Criminal Investigation and Bureau of Narcotic Investigation and Drug Control, Allegheny County Police, county park police, Capitol Police, park rangers and State forest officers of the Department of Conservation Natural Resources, county detectives under the jurisdiction of the county district attorney, housing authority police, municipal authority police, airport police, and various police employed by port authorities. After some discussion, the Task Force on April 27, 1999, unanimously determined that the existing state of affairs with respect to the roles of the aforementioned criminal justice professionals be preserved recognizing the unique functions of each of these law enforcement groups.

One of the more contentious issues examined by the Task Force was the possible establishment of police departments at the county level. Originally, it had been thought that county police departments could serve in areas not covered by municipal police with those municipalities currently providing such service either opting out of a county program or perhaps dissolving their police departments in favor of the services that could be rendered by a county police department. The Task Force was presented with a report prepared by Dr. Rosemary Gido of IUP which illustrated the lack of empirical studies on models for countywide policing. The primary objective of Dr. Gido's research had been to gather information to clarify questions concerning the policy management of county police departments in other states. She indicated that a literature review and research performed by the Spatial Science Research Center of IUP showed a lack of information on cost models and county policing models. In discussions with police "think tanks" across the United States, it has been determined that there have been no recent comprehensive studies of this topic. However, Dr. Gido did indicate that there were some economic studies which indicated that empirical evidence does not necessarily support the conventional wisdom that larger regional or county police forces lead to economies of scale. Also, some earlier studies seemed to indicate that most communities desire to keep police administration on the local level and to have police accountable to local authorities, according to Dr. Gido. Therefore, uncomfortable with the scarcity of empirical support from which to draw support for either a county police department model or a sheriff's department law enforcement model and concern expressed among the Task Force members that a new layer of policing is unnecessary, the Task Force decided not to pursue this issue of creating a countywide police presence in Pennsylvania.

The Task Force also considered a recommendation that had been made previously by the Senate Republican Policy Development and Research Office (PDRO) 1996 report that would have created a business tax credit program for the support of regional police departments. The discussion centered

on an approach similar to the Neighborhood Assistance Program, which is designed to encourage businesses to donate capital that can be used to provide eligible services to low income persons or impoverished neighborhoods. Under this plan, businesses can receive a 50 percent tax credit for their contribution amount, which can offset their Pennsylvania corporate tax liability. Projects that meet Department of Community and Economic Development priorities may qualify for a 70 percent tax credit. Projects fall under one of the following categories: community services, crime prevention, education, job training, or neighborhood assistance. Those eligible entities include nonprofit organizations and businesses. The Task Force, believing other avenues exist for support of regional police departments, unanimously decided to reject the establishment of a state tax credit patterned after the Neighborhood Assistance Program for the support of regional police departments.

The final item reviewed but not recommended by the Task Force was another PDRO recommendation that would have potentially increased state aid for regional police departments by changing the allocation formula of the insurance premiums tax proceeds in order to make more pension money available to regional police departments. As envisioned by PDRO, Section 402 of the Municipal Pension Plan Funding Standard and Recovery Act (Act 205 of 1984), would be amended by changing the formula and counting each police officer in a regional police department as 2.5 or 3 units. This would, however, result in a decrease of state pension aid funds available to other recipients since the insurance fund is relatively static. This recommendation would have required an actuarial recalculation of the Act 205 state funding distribution for support of local pension plans. Accordingly, the Task Force chose not to make this pension funding change a recommendation to the General Assembly.

V. HOUSE RESOLUTION 167 TASK FORCE RECOMMENDATIONS TO THE GENERAL ASSEMBLY

1. Development of a uniform basic training program for criminal justice professionals. The Task Force recommends that the General Assembly create a core basic training module to be used by all of the following categories of criminal justice professionals:

- **municipal police**
- **deputy sheriffs**
- **constables**
- **state and county probation and parole officers**
- **campus police**
- **agents of the Bureau of Criminal Investigation and the Bureau of Narcotics Investigation within the Attorney General's Office**
- **Allegheny County park police**
- **other park police**
- **Capitol police**
- **park rangers/state forest officers within the Department of Conservation and Natural Resources**
- **county detectives**
- **municipal authority police**

- **police officers from the Delaware River Port Authority, Allegheny County Port Authority, Southeastern Pennsylvania Transportation Authority, Pittsburgh Housing Authority, and Philadelphia Housing Authority.**

The Task Force further recommends that advanced training modules be established for each category of criminal justice professionals. The advanced training modules would be unique to each class of professionals. This training program would be established under a unified, expanded training commission, most likely the Municipal Police Officers' Education and Training Commission, with the name of the Commission amended to reflect its larger role. In addition, the Task Force discussed the existence of the federal Police Corps Program, administered by the United States Department of Justice, and recommends further review of the program and the feasibility of incorporating the Police Corps in Pennsylvania.

In discussing development of a uniform basic training program for law enforcement officers, the Task Force reviewed the efforts of a working group consisting of Major Wesley Waugh of the Pennsylvania State Police, Mr. Steve Spangenberg of the Pennsylvania Commission on Crime and Delinquency, Mr. John Stuckert of the Office of the Attorney General, Major Richard C. Mooney and Mr. Robert A. Nardi of the Municipal Police Officers' Education and Training Commission (MPOETC). The working group prepared a proposal, which follows, on the development of a uniform training basic law enforcement program for those entities which possess the ability to provide for law enforcement officers to enforce various statutes of the Commonwealth and which also compared the separate training programs which currently exist vis-a-vis the uniform training proposal. The Task Force deliberated the issues surrounding the scope of the standard basic training which would be contemplated. Among the issues discussed were the effect of receiving such basic training as possibly conferring arrest powers, as well as possible jurisdictional and liability problems. It was decided that: (1) one state agency should be responsible for training criminal justice professionals (most likely the MPOETC); (2) the same basic training course would be fulfilled by each category of criminal justice officer; (3) that a specialized curriculum above the basic training course would be retained for each criminal justice professional; and (4) those included in the training program will be the following: municipal police, deputy sheriffs, constables, state and county probation and parole officers, campus police for state owned and state related universities, investigators under the jurisdiction of the Attorney General, county park police, capitol police, park rangers and state forest officers under the jurisdiction of the Department of Conservation and Natural Resources, municipal authority police, Delaware River Port Authority Police, Allegheny County Port Authority Police, Southeastern Pennsylvania Transportation Authority Police, Pittsburgh Housing Authority Police, and Philadelphia Housing Authority Police. Game enforcement officers and fish and boat enforcement officers are recommended to be excluded from this program; however, the General Assembly may wish to consider including them within the purview of the basic training curriculum.

Mr. William Parkes, formerly of the Governor's Budget Office, presented costs associated with developing a uniform training program as administered by MPOETC, including calculation of reimbursing municipalities for police officers' regular salary for attending a basic training program. He stated that the total amount of salaries and benefits reimbursed by the Commonwealth to municipalities from 1997-98 at the 60 percent statutory rate was \$2.409 million for a total of 773 trainees. If that

level were increased to 80% as suggested by the Task Force, the reimbursement cost would have been \$3.212 million. Moreover, if the Commonwealth were to assume 100% of the reimbursement, the cost for training municipal police would have been \$4.105 million. MPOETC indicated that the cost for basic municipal police training averages \$2,252 per trainee. This program currently lasts 540 hours and will soon increase to 700 hours. If the course is expanded per the Task Force's recommendation, the cost is estimated to be \$7,650 per trainee. The Governor's Budget Office stated that it would be reasonable to assume the cost of a unified training program based upon the recommendations of the uniform training working group to be \$4.00-\$7.00 per hour. A core training program developed by the uniform training working group would contain classroom instruction, first aid instruction, motor vehicle training, and firearms training. The cost of salary reimbursement would vary with the length of the course as would expense reimbursement.

Uniform Training Proposal

Core Curriculum

Introduction to Academy/Training

- Overall Academy/Training Objectives
- Rules and Regulations of the Training Academy
- Learning Skills

Introduction to Law Enforcement in Pennsylvania

- History and Principles of Law Enforcement
- Police Power, Authority, and Discretion
- The Pennsylvania Criminal Justice System
- Criminal and Civil Liability – Standards of Performance⁸⁵
- Ethics and Moral Issues

Physical and Emotional Readiness

- Physical Fitness
- Emotional Health and Stress Management

Laws and Procedures

- Authority and Jurisdiction
- Constitutional Law
- Criminal Law
- Criminal Procedures and Laws of Arrest
- Search and Seizure
- Admissions and Confessions
- Liquor Laws
- Controlled Substances
- Lethal Weapons Law⁸⁶

⁸⁵ Includes a module on appropriate civil laws

⁸⁶ Segment sufficient to provide overview of sections most applicable to law enforcement personnel. In the case of lethal weapons law, the desirable instruction was categorized as a

Electronic Surveillance⁸⁷

Environmental Crimes

Defensive Tactics

Use of Force Legal Issues

Use of Force Continuum and Judgement Issues

Tactical Self-Defense

Patrol Procedures and Operations

Role of Patrol in Policing the Community

Patrol Procedures

Patrol Activities and Incidents

Vehicle Stop Techniques

Roadblocks and Barricades

Crimes in Progress

Crowd Control and Civil Disorder

Crime Prevention and Fear Reduction⁸⁷

Special Problems – Gangs and Terrorism⁸⁸

Principles of Criminal Investigation

Investigative Overview

Review of Laws and Procedures

The Officer as a First Responder

Securing the Crime Scene

Interviewing and Interrogation Techniques and Skills

Identifying, Collecting, and Processing Evidence

Identification of Suspects

Crimes Against People

Crimes Against Property and Public Policy

Injury and Death Cases

Sex Crimes (Broad Overview)

Controlled Substances

Informants and Intelligence

Surveillance

Civil Complaints and Service Calls

Case Preparation

Radio Procedures (General)

Human Relations

Perceptions of Human Relations

“moonlighter’s overview” to identify formal authority that does not extend to officers when they are employed as private agents. In the case of electronic surveillance law, the instruction would be intended to provide general knowledge of impermissible acts and unsanctioned equipment.

⁸⁷ General overview as an officer safety issue

Communication
Cultural Diversity
Ethnic Intimidation and Bias Crimes
Special Needs Groups

Crisis Management

Behavior Management and Crisis Intervention
Dispute Intervention and Conflict Management
Handling the Mentally Ill and Other Special Populations
Suicide, Barricaded Person and Hostage Situations

Families in Crisis

Juvenile Law and Justice
Handling Juveniles and Their Problems
Domestic Violence and Police Response
Victims' Assistance Laws

Basic Firearms Course

Basic Firearms Course
Handgun
Shotgun
Uniform Firearms Act

Operation of Patrol Vehicle

Emergency Vehicle Operation Course

Report Writing

Note Taking and Report Writing

Case Preparation

Courtroom Testimony and Demeanor
Rules of Evidence

First Aid and CPR

First Responder First Aid and CPR
HIV and AIDS Awareness

Handling Arrested Persons

Mechanics of Arrest, Restraint, and Control
Handcuffing
Transporting Prisoners
Custody of the Mentally Ill
Booking and Lockup
Juvenile Custody
Special Problems

Proposed Uniform Basic Training Program	Comparison with Existing Separate Basic Law Enforcement Training Programs							
	<i>Included?</i>	<i>Included?</i>	<i>Included?</i>	<i>Included?</i>	<i>Included?</i>	<i>Included?</i>	<i>Included?</i>	<i>Included?</i>
	<i>Municipal</i>	<i>Deputy</i>	<i>PGC</i>	<i>PF&BC</i>		<i>State</i>	<i>County</i>	<i>OAG</i>
<i>General Training Module</i>	<i>Police</i>	<i>Sheriffs</i>	<i>WCOs</i>	<i>WCOs</i>	<i>Constables</i>	<i>P.O.s</i>	<i>P.O.s</i>	<i>Agents</i>
Introduction to Academy / Training	Yes	Yes	Yes	Yes	Yes	*1	*1	Yes
Introduction to Law Enforcement in Pennsylvania	Yes	*1 & *2	*2	Yes	*1 & *2	*1	*1	*1,*2
Physical and Emotional Readiness	Yes	Yes	Yes	Yes	*1	*1	*1	*1
Laws and Procedures	Yes	*3	*2	Yes	*3	*2	*2	Yes
Defensive Tactics	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Patrol Procedures and Operations	Yes	No	No	Yes	No	No	No	No
Principles of Criminal Investigation	Yes	No	*1	Yes	No	*2	*2	Yes
Human Relations	Yes	Yes	Yes	Yes	*1	Yes	Yes	Yes
Crisis Management	Yes	Yes	Yes	Yes	*1	*1	*1	No
Families in Crisis	Yes	*1	No	Yes	No	Yes	Yes	No
Basic Firearms Course	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Operation of Patrol Vehicle	Yes	No	Yes	Yes	No	No	No	No
Report Writing	Yes	No	Yes	Yes	*1	Yes	Yes	Yes
Case Preparation	Yes	No	Yes	Yes	No	Yes	Yes	Yes
First Aid and CPR (First Responder level)	Yes	*4	*4	Yes	No	*1	*1	*2
Handling Arrested Persons	Yes	Yes	No	Yes	*1	Yes	Yes	Yes
1 = A less comprehensive training component exists in comparison to Act 120 training								
2 = Agency/officer specific								
3 = Training program has an expanded civil law component in comparison to Act 120 training								
4 = Basic first aid instead of First Responder level certification								

Comparison of Existing Training Programs

Working group members began their study by obtaining the various existing law enforcement training programs. In its analysis of training programs, the group postulated that the areas of commonality among the various training programs would provide a basis for a uniform training core.

The Basic Municipal Police Training Course (also known as Act 120 training) is being expanded and updated from 520 hours of instruction to over 700 hours. The revisions are a two-year process. Municipal police, county detectives, Allegheny County Police, members of the Allegheny County Sheriff's Department, and members of state-related institution campus police departments certified as criminal justice agencies, are required to attain Act 120 certification. An extensive list of additional agencies have elected to train personnel through the Act 120 program even though the officers are not eligible for certification upon completion.⁸⁸

The Deputy Sheriffs' Education and Training Board oversees the Deputy Sheriffs' Basic Training program, which is a 160-hour course administered by the Pennsylvania Commission on Crime and Delinquency. This course is also undergoing proactive expansion and updating under the authority of Act 10 of 1998. While the deputy sheriffs' course has a fraction of the training hours of basic municipal police training, the deputy sheriffs' training has a dramatically expanded module pertaining to civil laws and process. Courtroom security training is also provided to deputy sheriffs and constables while the topic does not plainly appear in the municipal police curriculum.

Members of the working group concur in the opinion that an accurate assessment of the elements of any core curriculum would involve a job task analysis for persons being trained. For this reason, no numbers of training hours are suggested for the uniform training proposal, which appears in this report.

Municipal Police Training (Act 120) course

Administered by the Municipal Police Officers' Education and Training Commission (MPOETC)

Law Enforcement Orientation	44 hours
Foundations of the Legal System	
Role of the Police in the Legal System	
Functions of the Criminal Justice System	
Legal Systems	
Antisocial Behavior	
Professional Relations	
Ethics and Values	

⁸⁸Sheriff's deputies from a number of departments other than the Allegheny County Sheriff's Department, Pennsylvania Fish and Boat Commission Waterways Conservation Officers, campus police at state-owned institutions, Capitol Police, Department of Conservation and Natural Resources Park Rangers and State Forest Officers, municipal authority airport police, Allegheny County Port Authority Police, Southeastern Pennsylvania Transportation Authority Police, Pittsburgh Housing Authority Police, and Philadelphia Housing Authority Police undergo Act 120 training but are not eligible for certification upon completion.

Professional Development	81 hours
Physical Conditioning	
Emotional Health	
Human Relations Skills	
Application of Force	
Firearms Safety and Weapons Care	
Standards of Performance and Criminal/Civil Liability	
Law	98 hours
Authority and Jurisdiction	
Criminal Law	
Criminal Procedure	
Evidence	
Juvenile Justice	
Mental Health Act	
Civil Law	
Use of Force	
Controlled Substance Act	
Liquor Laws	
Domestic Violence – Spouse and Child Abuse	
Victims’ Assistance Act	
Motor Vehicle Code	30 hours
Introduction to the Highway Safety System	
Vehicle Code Terminology	
Vehicle Terminology	
Title, Registration and Vehicle Identification	
Drivers Licensing	
Vehicle Regulations	
Rules Governing Movement of Vehicles and Actions of People	
Serious Offenses	
Patrol Procedures and Operation	40 hours
History and Importance of Police Patrol	
Prepatrol and Routine Patrol Procedures	
Patrol Activities and Incidents	
Monitoring Vehicular and Pedestrian Traffic	
Driving Under the Influence – Enforcement	
Investigations	41 hours
Investigation Overview	
Preliminary Investigation	
Securing the Crime Scene	
Investigative Interviewing	

Processing Evidence In-Depth Investigations Area Searches Accident Investigation Surveillance	
Communications	30 hours
Communications Overview One-to-one Communications Delivering Correspondence and Emergency Notification Written Communications Public Speaking Testifying in Court	
Handling Violent or Dangerous People	13 hours
Behavior Management and Crisis Intervention Dispute Intervention Handling the Mentally Ill Suicide, Barricaded Persons and Hostage Situations Role Playing	
Custody	20 hours
Review of Legal Authority and Constitutional Principles Mechanics of Arrest and Search Transportation of Those in Custody Booking and Lock-Up Juvenile Custody Custody of the Mentally Ill or Disturbed Persons Special Problems	
First Aid and CPR	up to 66 hours
Firearms	52 hours
Introduction to Firearms Shooting Fundamentals (Basic Pistol in the Classroom) Range Behavior Range Work for Basic Pistol Classroom for Practical Pistol Range Work for Practical Pistol Qualification Introduction to the Police Shotgun Range Exercises for Shotgun Night Fire Familiarization Judgment and Tactical Skills	

Operation of Patrol Vehicles	26 hours
Traffic Safety and Defensive Driving	
Vehicle Operation and Control	
Techniques of Vehicle Control	

Municipal Police Basic Training ***520 hours***

The proposed updated Act 120 curriculum, which expands basic municipal police training to over 700 hours, is appended to this report. The curriculum hours have not yet been approved by the Municipal Police Officers' Education and Training Commission (MPOETC).

Deputy Sheriffs' Basic Training Curriculum

Administered by the Pennsylvania Commission on Crime and Delinquency

Course Administration	3 hours
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Introduction to Criminal Justice and the Powers, Duties and Roles of the Deputy Sheriffs in Pennsylvania	6 hours
Introduction to Criminal Justice	
The Historical and Modern Development of the Sheriff's Role	
Powers and Duties of the Sheriff in Pennsylvania	

The Courts of Pennsylvania	3 hours
Framework of the Courts	
Unified Court System of Pennsylvania	
Structure of the County Court System	
Courtroom Procedures: Criminal	
Courtroom Procedures: Civil	
Structure of Trials	

Civil Procedure	32 hours
A Civil Lawsuit – Overview	
Source of Rules Governing Deputy Sheriffs' Civil Procedure Activities	
The Constitution and Civil Procedure	
Service of Process in a Civil Action	
Service of Process in Actions Other than Civil Actions	
Replevin (Complaint, Writ of Seizure, Impoundment)	
Proceeding Quasi in Rem (Writ of Attachment)	
Enforcement of Judgements (Writ of Execution, Writ of Possession, Order of Execution, and Sheriff's Sales)	
Evictions	
Subpoenas	
Domestic Matters	
Mental Health Act	

Pennsylvania Crimes Code, Criminal Procedure and Evidence	16 hours
Introductory Overview	
Criminal Process Overview	
Pennsylvania: Overview of the Crimes Code	
Crimes Code and Sentencing – Elements of Crime and Specific Offenses	
Criminal Procedure and Evidence – Search and Seizure	
Criminal Procedure – Arrest, Extradition, Securing Witnesses, Use of Force	
Criminal Procedure and Evidence – Law of Evidence	
Residual Laws and Issues	
Courtroom Security	6.5 hours
General Courtroom and Trial Security	
High Threat Trial	
Prisoner Transportation	6.5 hours
Prisoner Transportation: Principles and Practices	
Prisoner Movement	
First Aid	18 hours
Basic First Aid	
CPR	
Crisis Intervention	10 hours
Mental Illness and Abnormal Psychology	
Crisis and Conflict	
Firearms	24 hours
Introduction	
Weapons and Ammunition	
Fundamentals of Combat Shooting	
Use of Deadly Force	
Range Activities	
Qualification and Examination	
Self-Defense, Defense Tactics, Mechanics of Arrest, and Physical Conditioning	25 hours
Self Defense Basic Skills	
Come-Along Techniques	
Unarmed Defense	
Armed Defense	
Mechanics of Arrest	
Barricaded Persons	
Use of Baton	
Stretching and Exercise	
Stress, Nutrition and Basic Exercise Physiology	

Communications and Professional Development	10 hours
Formal Communications	
Professional Development	
Community Relations	

Deputy Sheriffs' Basic Training ***160 hours***

Pennsylvania Game Commission Wildlife Conservation Officers' Training:

Agency Administration	80 hours
Conservation Education and Public Relations	134 hours
Land Management	125 hours
Law Enforcement Administration	29 hours
Laws, Regulations, Procedures	143 hours
Law Enforcement Techniques	94 hours
Officer Safety (includes Firearms and Defensive Tactics)	176 hours
Hunting and Trapping Methods	24 hours
Related Enforcement Agencies / Laws	5 hours
Wildlife Management	118 hours
Field Training ⁸⁹	12 weeks

Wildlife Conservation Officers' Basic Training ***928 hours plus Field Training***
1520 hours total

Pennsylvania Fish and Boat Commission Waterways Conservation Officers' Training:

Municipal Police (Act 120) Training by Indiana University of Pennsylvania	608 hours
Boat Operation and Boat Law Enforcement	144 hours

⁸⁹ Pennsylvania Game Commission Field Training lasts 12 weeks, six days per week, with unlimited hours.

Environmental Law Enforcement	86 hours
Communications Skills	56 hours
Officer Safety Skills	106 hours
Conservation Officer Skills	144 hours
Conservation Law Enforcement	144 hours
Field Training	280 hours
<i>Waterways Conservation Officers' Basic Training</i>	<i>1504 hours</i>

Constables' Basic Training Curriculum Summary

Administered by the Pennsylvania Commission on Crime and Delinquency

Introduction	4 hours
Professional Development	8 hours
Civil Law and Process	20 hours
Criminal Law and Process	8 hours
Use of Force	4 hours
Defensive Tactics	12 hours
Mechanics of Arrest	4 hours
Prisoner Transport and Custody	8 hours
Courtroom Security	4 hours
Crisis Intervention	8 hours
<i>Constables' Basic Training</i>	<i>80 hours</i>

Office of Attorney General Agents' Training:

Overview of Training/Overview of OAG/Administrative Matters	11 hours
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Introduction to Law Enforcement	12 hours
Commonwealth Attorneys Act	
Ethics	
Internal Affairs	
Civil Liability	
Sexual Harassment	
Laws, Procedures, and Criminal Investigation	111 hours
Act 64	
Criminal Procedures	
Search and Seizure	
Rules of Evidence	
Money Laundering/Financial Crimes	
Grand Jury/Electronic Surveillance and Technical Services	
Complex Conspiracies	
Crime Scene Techniques	
Interview and Interrogations	
Compliance/Diversion Investigations	
Risk Assessment	
Evidence Procedures	
Advanced Undercover Operations	
Interdiction	
Wiretap Plant Operations	
Intelligence	
Informants	
Clandestine Lab Investigations	
Drug Identification and Field Testing	
Manufacture of Crack Cocaine	
Pharmacology	
Hydroponics	
Defensive Tactics	33 hours
Use of Force	
Self Defense/Mechanics of Arrest	
Handgun Retention	
Pepper Spray	
Operations	10 hours
Agent Operational Manual	
Asset Forfeiture Administration	
Case Management and Advance Funds	
Cultural Diversity	4 hours

Firearms Regulations	2 hours
Firearms	40 hours
Course Goals and Objectives	
Safety Briefing – Classroom, Range, On Duty, Off Duty, Home and Family	
Review of OAG Policy and Procedures	
Issued Pistol(s) and Shotguns	
Nomenclature	
Assembly and Disassembly	
Double Action/Single Action Trigger	
Dry Fire Drills	
Loading and Unloading Techniques	
Malfunction Drills/Immediate Action Procedures	
Drawing Techniques	
Ammunition	
Overview	
Ballistics	
Nomenclature	
Fundamentals of Marksmanship	
Marksmanship Shooting Drills – Double Action/Single Action	
Strong Hand/Weak Hand	
Shooting Positions – Practical Applications	
Distance Shooting – Practical Distances	
Multiple Shots – Vertical Tracking	
Shoot/Don't Shoot	
Moving Targets – Moving and Shooting	
Night Fire – Dim Light Techniques	
Cover versus Concealment	
Tactical Considerations and Movement	
Use of Flashlights – Flashlight Techniques	
Cleaning and Maintenance – Pistol and Shotgun	
Combat Stress Course – Qualification	
Night Fire Course – Qualification	
Pistol and Shotgun Course - Qualification	
Report Writing and Investigative Resources	16 hours
First Aid and CPR	7 hours
<i>Office of Attorney General Agents' Training</i>	246 hours
 <i>Probation and Parole Basic Skills Academy</i>	 97 hours
Addictions, Treatment Programs, Street Drugs	6.5 hours

AIDS Awareness & Confidentiality	3.5 hours
Boot Camp Releases	1.5 hours
Communication & Personality Styles	1.0 hour
Criminal Thinking	2.0 hours
Cultural Sensitivity	3.0 hours
De-escalation Skills	3.0 hours
Defensive Tactics & Enforcement Skills	14.0 hours
Domestic Violence	18.0 hours
Ethics	1.5 hours
Gangs in Pennsylvania	3.5 hours
Interviewing Skills	1.5 hours
Introduction to Academy/Program Overview	1.5 hours
Investigative Skills	3.0 hours
Office of the Victim Advocate	6.5 hours
Pre-sentence Investigations	2.5 hours
Probation & Parole Law: Courtroom Performance	6.5 hours
Report Writing	3.5 hours
Sentencing in Pennsylvania	1.5 hours
Sexual Offenders Overview	3.0 hours
Supervision Planning	3.0 hours
Time Management	1.5 hours
Testing and Evaluations	4.0 hours

Domestic Violence Protocol 19.5 hours

Basic Probation & Parole Skills and Domestic Violence Protocol Trainings are mandatory for state parole agents.

PBPP Basic Probation & Skills Training is available to county probation/parole officers.

Courses Offered Quarterly or Annually

Advanced Arrest Training	16 hours
AIDS Training	12 hours
Business & Professional Writing	6 hours
Cellular Fraud	6 hours
Co-Dependency	10 hours
Communication Skills	6 hours
Crime Scene Security	6 hours
Cultural Diversity	10 hours
De-escalation Techniques	10 hours
Defusing Hostility in the Workplace	10 hours
Domestic Extremist Groups	6 hours
Drug Subculture	10 hours

Employment Group Training	10 hours
Female Offenders in Recovery	10 hours
First Aid/CPR	6.5 hours
Forensic Mental Health Issues	10 hours
Hearing Skills Training	16 hours
Interstate Compact Services	5 hours
Pharmacology	6 hours
Physical Fitness	10 hours
Pressure Point Control Tactics Instructor Certification	36 hours
Profiling the Adult Arsonist	10 hours
Psychiatric Disorders	6 hours
Relapse Prevention	10 hours
Report Writing	10 hours
Risk Assessment & Supervision of Violent Offenders	10 hours
Search and Seizure	6 hours
Self-Defense for Women	10 hours
Sex Offender Treatment & Supervision	10 hours
Spontaneous Knife Defense	10 hours
Street Drugs	10 hours
Stress Management	10 hours
Survival Tactics Against Resistance (STAR)	16 hours
Understanding Personality Disorders	10 hours
Verbal Judo	10 hours
Violence & Male Socialization	10 hours

State parole agents are required to complete 40 hours of annual training (American Probation & Parole Accreditation Standard).

Courses are open to County Probation and Parole Officers.

State Probation and Parole Officers' Firearms Training

Administered by the Pennsylvania Board of Probation and Parole (PBPP)

Initial Firearms Training: 40 hours

- Use-of-Force Continuum
 - PBPP Use-of-Force Policy and Procedures
- PBPP Firearms Policy and Procedures
- Legal Liability Issues
- Firearms Safety
- Shooting Fundamentals
- Dim Light and Night Fire
- Weapon Cleaning and Maintenance
- Weapons Qualification Course

Weapon Retention
OC Spray
Flying Armed (FAA Rule 108)

Annual Training: **24 hours**

Requalification Course
Review PBPP Firearms Policy and Procedures

Tactical Shoot
Tactical Course
Pressure Point Control Tactics (PPCT)
Shooting Scenarios

Dim Light/Night Shoot

State Probation and Parole Officers' Firearms Training **64 hours**

County Probation and Parole Officers' Firearms Training

Administered by the County Probation/Parole Officers Firearm Education and Training
Commission (Authority under Act 158 of 1994)

Initial Firearms Training: **50 hours**

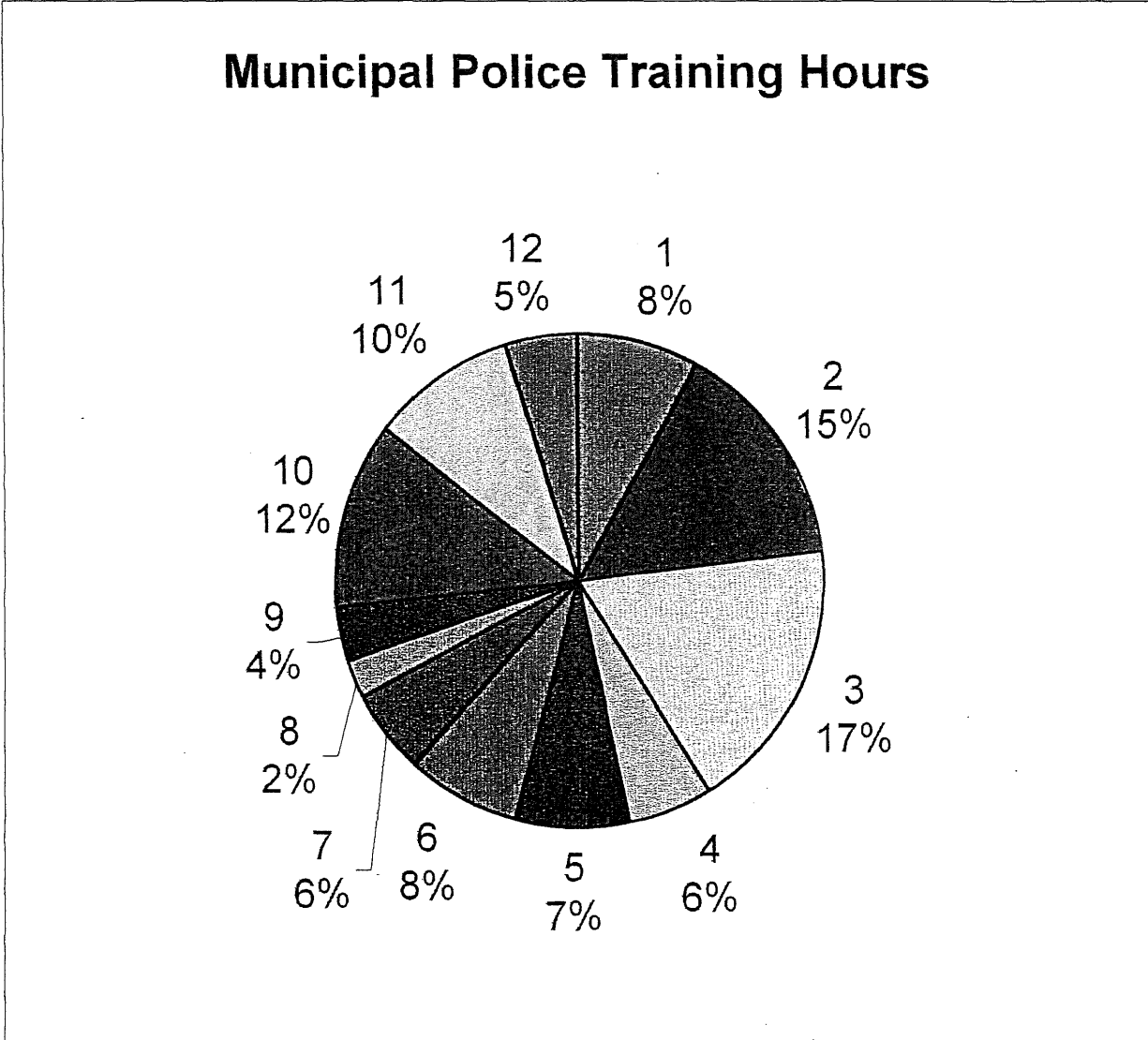
Authority, Jurisdiction, and Use of Force	4 hours
Introduction of Firearms	4 hours
Shooting Fundamentals	4 hours
Firearm Safety and Care	4 hours
Review and Test	3 hours
Range Instruction	20 hours
Dim Light/Night Shoot	4 hours
Range Qualification	7 hours

Annual Training: **19 hours**

Classroom and Range Instruction	8 hours
Requalification Course	3 hours
Tactical Shoot	8 hours

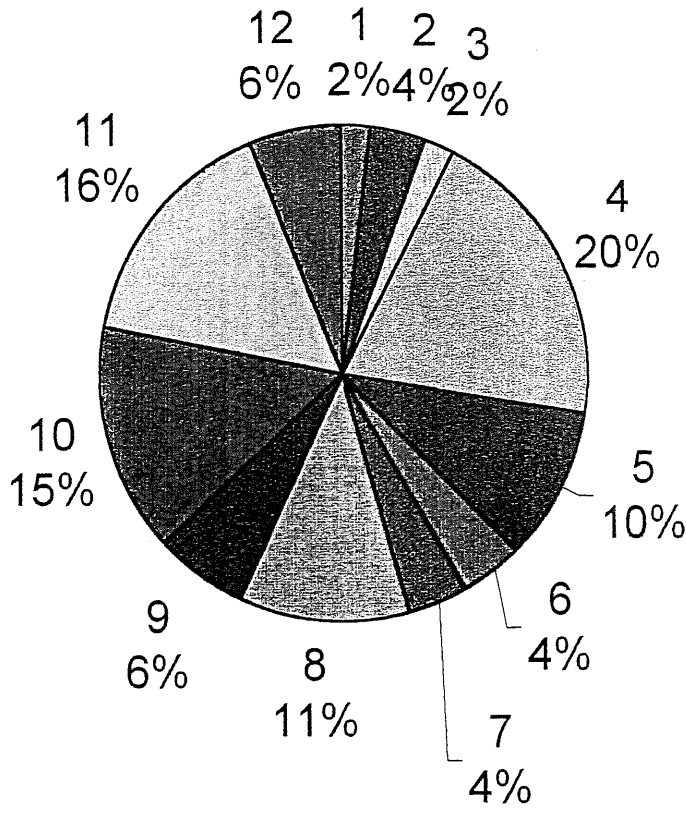
County Probation and Parole Officers' Firearms Training **69 hours**

Legend	Municipal Police Training Hours	Hours
1	Law Enforcement Orientation	44
2	Professional Development	81
3	Law	98
4	Motor Vehicle Code	30
5	Patrol Procedures and Operation	40
6	Investigations	41
7	Communications	30
8	Handling Violent or Dangerous People	13
9	Custody	20
10	First Aid and CPR	Up to 66
11	Firearms	52
12	Operation of Patrol Vehicles	26
		540



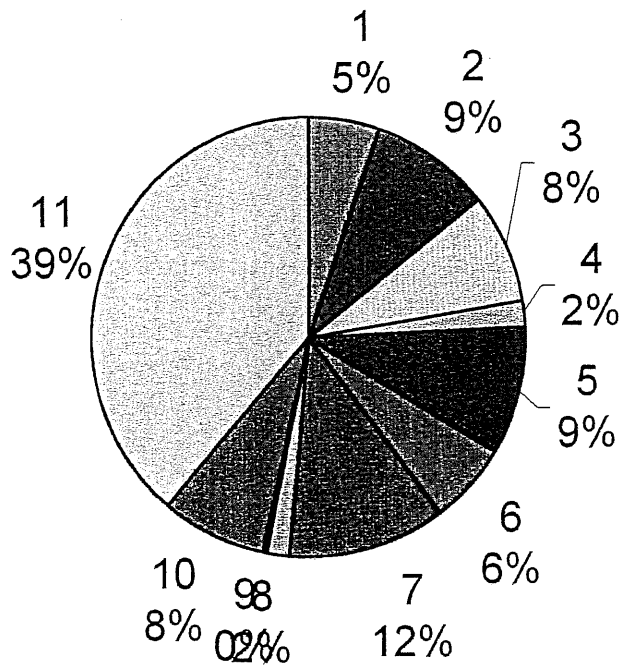
Legend	Deputy Sheriff's Training	Hours
1	Course Administration	3
2	Introduction to Criminal Justice/Powers/Duties/Roles of Deputy Sheriffs in Pennsylvania	6
3	The Courts of Pennsylvania	3
4	Civil Procedure	32
5	Pennsylvania Crimes Code, Criminal Procedure and Evidence	16
6	Courtroom Security	6.5
7	Prisoner Transportation	6.5
8	First Aid	18
9	Crisis Intervention	10
10	Firearms	24
11	Self-Defense, Defense Tactics, Mechanics of Arrest, and Physical Conditioning	25
12	Communications and Professional Development	10
		160

Deputy Sheriffs' Training Hours



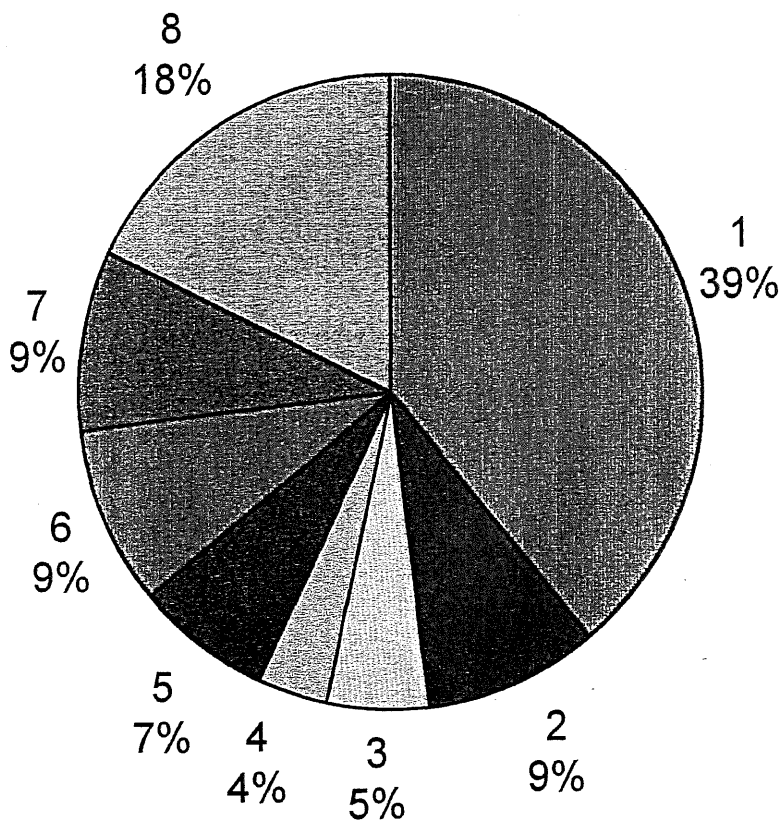
Legend	Wildlife Conservation Officers' Training	Hours
1	Agency Administration	80
2	Conservation Education and Public Relations	134
3	Land Management	125
4	Law Enforcement Administration	29
5	Laws, Regulations, Procedures	143
6	Law Enforcement Techniques	94
7	Officer Safety (includes Firearms and Defensive Tactics)	176
8	Hunting and Trapping Methods	24
9	Related Enforcement Agencies / Laws	5
10	Wildlife Management	118
11	Field Training (12 weeks)	591
Total excluding 12 weeks supervised Field Training		928
Total training including 12 weeks supervised Field Training		1520

Wildlife Conservation Officers' Training Hours



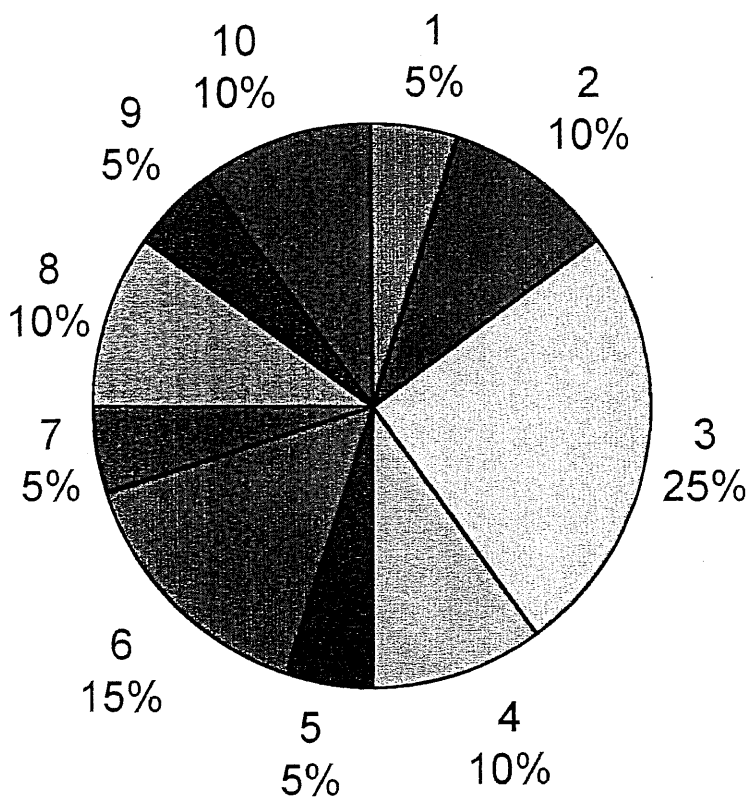
Legend	Waterways Conservation Officer Training	Hours
1	Municipal Police (Act 120) Training by Indiana University of Pennsylvania	608
2	Boat Operation and Boat Law Enforcement	144
3	Environmental Law Enforcement	86
4	Communications Skills	56
5	Officer Safety Skills	106
6	Conservation Officer Skills	144
7	Conservation Law Enforcement	144
8	Field Training	280
		1568

Waterways Conservation Officer Hours



Legend	Constables' Training	Hours
1	Introduction	4
2	Professional Development	8
3	Civil Law and Process	20
4	Criminal Law and Process	8
5	Use of Force	4
6	Defensive Tactics	12
7	Mechanics of Arrest	4
8	Prisoner Transport and Custody	8
9	Courtroom Security	4
10	Crisis Intervention	8
		80

Constables' Training Hours



Law Enforcement Officer	Certified Act 120?	Trained Act 120?	Annual In-Service Training Requirements
Municipal Police	Yes	Yes	12 hours + firearms, first aid, CPR
Deputy Sheriffs	No	No ⁹⁰	16-20 hours every two years
Game Enforcement Officers	No	No	Minimum 27 hours
Fish and Boat Enforcement Officers	No	Yes ⁹¹	Minimum 40 hours
Constables	No	No	20-40 hours (20 hours for firearms)
State Probation and Parole Officers	No	No	40 hours (24 hours firearms)
County Probation and Parole Officers	No	No	Currently being implemented (19 hours firearms)
Campus Police - State-Owned Institutions	No	Yes ⁹¹	12 hours + firearms, first aid, CPR
Campus Police - State-Related Institutions	Yes ⁹²	Yes ⁹²	12 hours + firearms, first aid, CPR
Office of Attorney General	No	No	Two weeks including 16 hours firearms
Allegheny County Police	Yes	Yes	12 hours + firearms, first aid, CPR
County Park Police	No	No	No
Capitol Police	No	Yes ⁹¹	12 hours + firearms, first aid, CPR
DCNR Park Rangers/State Forest Officers	No	Yes ⁹¹	12 hours + firearms, first aid, CPR
County Detectives	Yes	Yes	12 hours + firearms, first aid, CPR
Municipal Authority Airport Police	No	Yes ⁹³	12 hours + firearms, first aid, CPR
Delaware River Port Authority Police	No	No	Firearms requalification only
Allegheny County Port Authority Police	No	Yes	12 hours + firearms, first aid, CPR
Southeastern Pa. Transportation Authority	No	Yes	12 hours + firearms, first aid, CPR
Pittsburgh Housing Authority Police	No	Yes	12 hours + firearms, first aid, CPR
Philadelphia Housing Authority Police	No	Yes ⁹⁴	12 hours + firearms, first aid, CPR

⁹⁰ Agency policy determination, except for Allegheny County Sheriff's Department, which is trained and certified pursuant to Act 120

⁹¹ Pursuant to agency policy but not mandated by statute

⁹² If certified as a criminal justice agency by the Office of Attorney General

⁹³ Pursuant to statute other than Act 120

⁹⁴ Act 120 provides for training but does not provide for certification

Act 120 - Expanded and Revised MPOETC Curriculum

Police Ethics and Community Oriented Policing are interwoven throughout the curriculum

Introduction to the Academy

- Learning Skills
- Role and Function of the MPOETC
- Municipal Police Officers Training and Education Act

Introduction to Law Enforcement in Pennsylvania

- History and Principles of Law Enforcement
- Police Power, Authority and Discretion
- Police and the Public and Community Oriented Policing
- Ethics and Moral Issues
- The Pennsylvania Criminal Justice System
- Criminal/Civil Liability - Standards of Performance
- Employer/Employee Relations

Physical and Emotional Readiness

- Physical Fitness
- Academy Physical Requirements
- Emotional Health and Stress Management

Laws and Procedures

- Authority and Jurisdiction
- Constitutional Law
- Criminal Law
- Criminal Procedures and Laws of Arrest
- Search and Seizure
- Admissions and Confessions
- Civil Laws
- Liquor Laws
- Controlled Substances
- Cell Phone Laws
- Lethal Weapons Law
- Electronic Surveillance Act

Defensive Tactics

- Use of Force Legal Issues
- Use of Force Continuum/Judgment Issues
- Tactical Self-Defense

Motor Vehicle Law Enforcement and Accident Investigation

- Vehicle Code and Enforcement
- Vehicle Inspection
- Title, Registration and Vehicle Identification
- Driver Licensing
- Vehicle Regulations and Insurance
- Rules Governing Movement of Vehicles and Actions of People
- Serious Offenses and Fatal Accidents
- DUI Enforcement/Impaired Operator

- Traffic Enforcement Strategies
- Occupant Safety
- Breathalyzer Operations Principles

Motor Vehicle Collision Investigation and Related Issues

- Collision Investigation
- Collision Scene Traffic Direction and Control
- Hazardous Materials

Patrol Procedures and Operations

- Role of Patrol in Policing the Community
- Patrol Procedures
- Patrol Activities and Incidents
- Monitoring and Controlling Vehicular and Pedestrian Traffic
- Vehicle Stop Techniques
- Roadblocks and Barricades
- Crimes in Progress
- Crowd Control and Civil Disorder
- Crime Prevention and Fear Reduction
- Special Problems - Gangs and Terrorism

Principles of Criminal Investigation

- Investigative Overview
- Review of Law and Procedures
- The Officer as First Responder
- Securing the Crime Scene
- Interviewing and Interrogation Techniques and Skills
- Identifying, Collecting and Processing Evidence
- Identification of Suspects
- Crimes Against People
- Crimes Against Property and Public Policy
- Injury and Death Cases
- Sex Crimes
- Controlled Substances
- Informants and Intelligence
- Surveillance
- Civil Complaints and Service Calls
- Case Preparation
- Radio Procedures

Human Relations

- Perceptions of Human Behavior
- Communication
- Cultural Diversity
- Ethnic Intimidation/Bias Crimes
- Special Needs Groups

Crisis Management

- Behavior Management and Crisis Intervention
- Dispute Intervention/Conflict Management
- Handling the Mentally Ill and other Special Populations

Suicide, Barricaded Person and Hostage Situations

Families in Crisis

- Juvenile Law and Justice
- Handling Juveniles and their Problems
- Domestic Violence and Police Response
- Victims' Assistance Laws

Basic Firearms Course

- Basic Firearms Course

Operation of Patrol Vehicle

- Emergency Vehicle Operation Course

Report Writing

- Note Taking and Report Writing

Case Presentation

- Courtroom Testimony and Demeanor
- Rules of Evidence

First Aid and CPR

- First Aid and CPR

Handling Arrested Persons

- Mechanics of Arrest, Restraint and Control
- Handcuffing
- Transporting Prisoners
- Custody of the Mentally Ill
- Booking and Lockup
- Juvenile Custody
- Special Problems

Implementation of the Police Corps: Issues and Challenges⁹⁵

At present there are 23 states in varying stages of involvement in the Police Corps program, administered by the U.S. Department of Justice, Office of Justice Programs (OJP). The program is intended to address violent crime by increasing the number of police officers with advanced education and training that are assigned to community patrol. Another of the program's objectives is to increase the number of minority police officers serving in the community.

Students accepted into the program receive up to \$7,500 per year, up to \$30,000 total, to cover expenses of their undergraduate education. The students are paired with a sponsoring police department, which must agree to hire and employ them as patrol officers upon completion of their degree and training. The program also provides the cost of a 16 to 24-week training in policing for the participants and allows them a stipend while in the training program. During the required four-year employment as a police officer, the employing department is annually reimbursed \$10,000 per participant officer.

The Pennsylvania Commission on Crime and Delinquency has identified potential challenges to the implementation of the Police Corps in Pennsylvania, particularly to problems with the program design and implementation. These challenges will require a close review to determine whether the program, or a similar one, can be made to work in Pennsylvania and, more importantly, meet the needs of police departments in the state.

To successfully match students with sponsoring police departments, and assure that the students will be hired by the sponsoring departments will undoubtedly require changes to: municipal civil service and hiring standards, rules and policies; police union agreements; and, perhaps the statutes governing them. In addition, differences between the statutorily mandated police officer training standards administered by the Municipal Police Officers' Education and Training Commission (MPOETC) and the training mandates of the Police Corps program must be resolved.

States with a Police Officers' Standards and Training (POST) Commission, administering legislatively established hiring standards that are mandatory for all municipal police departments, have been able to more easily implement Police Corps. These states do not have to deal with the myriad of hiring standards and practices that exist in a non-POST state like Pennsylvania. Alternatively, non-POST states have implemented Police Corps by focusing on a small number of police departments that were willing to significantly alter their hiring standards and practices to meet the requirements of the Police Corps program.

It is important to note that these same problems have been experienced, and have yet to be fully resolved, by a number of the Police Corps participant states. Based on contacts with other states, it appears that the initial Police Corps program design failed to adequately consider the variety and complexity of existing state laws related to the training and hiring of police officers; the selection processes and standards of municipal governments; and, the interplay between municipal governments and police

⁹⁵Prepared by the Pennsylvania Commission on Crime and Delinquency for the House Resolution 167 Task Force, May 28, 1999.

unions. Although it has been in existence since 1993, the Police Corps program has yet to adequately address these and other potentially fatal shortcomings.

Problems were also recently identified by the National Criminal Justice Association (NCJA) in the January 1999 Justice Bulletin. Because student participants and sponsoring departments are affected by fluctuating economic conditions and employment rates "...completing the Police Corps program does not guarantee that the participant will be hired as an officer or complete his or her service." The Bulletin also identified problems with participants completing the program noting that if injured while attending college, participants may become ineligible to fulfill the duties of a police officer. Further, the requirements of the program do not allow the administration of psychological tests and background clearances until the participant is offered a job which may preclude the hiring of a participant even after he or she has completed the educational and training requirements of the program.

The administration of the Police Corps program is haunted by two disturbing philosophical shortcomings. The first and most disturbing shortcoming of the Police Corps is the discriminatory, almost cynical, linking of the program offering scholarships to the children of slain police officers to the Police Corps. While scholarships for the children of slain officers were clearly intended to be available to all, the enabling legislation has excluded from eligibility for scholarships those children residing in the 27 states that do not participate in the Police Corps. Pennsylvania has addressed this problem, to a degree, through Act 1998-129, the Police Officer, Firefighter, Correction Officer, and National Guard Member Child Beneficiary Education Act, which provides educational support at community colleges and state-owned or state-related institutions, for children of those slain in the line of duty.

Secondly, the program ignores the needs of existing police officers. The International Association of Chiefs of Police (IACP) has published its position that funds supporting the Police Corps would likely be better spent in supporting and furthering the education of those who have already made a commitment to law enforcement as a career. The DOJ maintains a similar scholarship program for police officers, the Law Enforcement Scholarship Program. Unfortunately, the DOJ has not promoted that program as it has the Police Corps, and according to the IACP, has consistently underfunded the Law Enforcement Scholarship Program while simultaneously increasing funding for the Police Corps.

Reasonably looking at the program brings into question the extent of its impact. Typically, participant states report annual new-participant groups of 20 to 40 students. Even without considering dropouts for various causes the addition of 20 to 40 new trainees, when compared to the total police officers trained and put on the street each year, is not significant. Assuming a similar program in Pennsylvania, 20 to 40 new officers would represent only 1.6% to 3.3% of the approximately 1,200 new police officers certified annually by the MPOETC.

2. *The Governor's Center for Local Government Services (Center) within the Department of Community and Economic Development (DCED) should become the agency to act as an advocate for municipal police at the state level. The Center, with additional appropriation and staff, should be designated and empowered to assume a more significant role as a clearinghouse for information, as a provider of necessary police studies at an expanded level, including encouraging, where appropriate, police regionalization, and as a consultant for local police departments upon demand.*

In the course of the House Democratic Committee Policy Task Force hearings on local law enforcement in 1995, 78 witnesses testified, including 38 police chiefs representing mainly police agencies in small-to mid-sized communities. The hearings were held in conjunction with the special legislative session on crime in the belief that local law enforcement capabilities and resources were of critical importance to the prevention and reduction of crime and that the primary sources of relevant information were the municipal officials, police chiefs, and officers who are directly involved with those matters on a daily basis.

The House Democratic Policy Committee Task Force also recognized deficiencies in the State's attention to the needs of local law enforcement agencies relative to their vitally important contributions to public safety in the Commonwealth. The fact that in the past quarter century or more, only two major items of legislation have been enacted to assist local law enforcement (the Municipal Police Officers' Education and Training Act and Piggyback Purchasing for Municipal Police Agencies) is indicative of the attention shortage.

These conclusions were reinforced by frequent comments from the above police chiefs and other officials who testified at the House Democratic Policy Committee Task Force hearings to the effect that: (1) they perceive that the problems and resource needs of local law enforcement received scant interest or attention from the State (many made the point that the Policy Committee Task Force hearings were the first, or most visible, evidence they have seen of the State's interest); and (2) they were unaware of various sources of financial or technical assistance to local law enforcement provided by the state or federal governments, or whom in government to contact about such assistance.

The House Democratic Policy Committee Task Force also paid special notice to the fact that functions related to local law enforcement exist among several state agencies, suggesting the value of a service that refers inquiries from local law enforcement officials to the appropriate provider. As envisioned by House Resolution 167 Task Force in support of the previous work of the House Democratic Policy Committee, DCED would be established as the state agency to serve as a liaison with local law enforcement. Among its responsibilities, DCED would:

- (1) maintain continuing liaison with the Commonwealth's municipal law enforcement agencies and with the Pennsylvania Chiefs of Police Association;
- (2) as a resource center, develop and maintain a data base of all state, federal, and private sources of financial and technical assistance to local law enforcement agencies and communicate the information to municipal and local police officials;
- (3) respond to inquiries by municipal and local law enforcement agencies and provide referral services as needed;
- (4) administer such financial assistance programs as may result from Recommendation #7 of the House Resolution 167 Task Force report;

- (5) serve as the lead agency and advocate for local law enforcement in state policy formation and decision-making related to local police functions and resources but not to include matters involving employer-employee relations; and
- (6) issue an annual report to the Governor and the General Assembly on DCED's activities and on the state of local law enforcement in the Commonwealth with legislative recommendations as conditions indicate.

It should be noted that DCED would not be intended to perform functions currently handled by other state agencies but to refer its law enforcement clients to the appropriate agencies as needed.

3. *A funding source for support of existing police departments should be created.* The Task Force recommends that a dedicated source of funding for municipal police should be established for the purchase of structures, equipment, and vehicles, such as the 2% loan program proposed under House Bill 541, Printer's Number 565, and Senate Bill 267, Printer's Number 268, of the 1999-2000 Legislative Session. These bills would authorize the Commonwealth to incur debt in the amount of \$20,000,000 for the purpose of providing loans to municipalities as follows: (1) for the purchase, maintenance, or repair of buildings, a loan of not less than \$5,000 nor more than \$200,000, and (2) for the purchase, maintenance, or repair of vehicles or equipment, a loan of not less than \$5,000 nor more than \$100,000.

House Bill 541 and Senate Bill 267 would establish the Police Agency Loan Fund, which would be administered by the Police Agency Loan Division created within the Pennsylvania Emergency Management Agency. Political subdivisions could apply for a loan, at a interest rate of 2 percent, the monies of which must be utilized to assist local police agencies in the following capacities:

- (1) to purchase, expand, modernize, or repair buildings, or portions thereof, which are used exclusively for police purposes, including police headquarters, police substations, and police maintenance garages;
- (2) to purchase, maintain, or repair equipment; or
- (3) to purchase, maintain, or repair vehicles.

A loan secured for the purchase, maintenance or repair of buildings may not amount to less than \$5,000 nor more than \$200,000. Loans obtained for the purchase, maintenance, or repair of vehicles or equipment may not amount to less than \$5,000 nor more than \$100,000. No political subdivision could receive loans totaling more than \$300,000 in a five year period. Application procedures and repayment schedules are enumerated.

A loan would have a repayment period as follows:

- (1) for a loan of not more than \$15,000, a period of 5 years.

- (2) for a loan of more than \$15,000 but not more than \$100,000, a period of 10 years.
- (3) for a loan of more than \$100,000, a period of 15 years.

For purposes of the legislation, a "police agency" is defined as a police department of a city, town, township, borough, or home rule municipality which: (1) has police coverage for a minimum of 40 hours per week, and (2) has had, for the preceding 18 months, police coverage for a minimum of 40 hours per week. The term would also include an office of county detectives working for a district attorney and a regional police department organized under the Intergovernmental Cooperation Law (53 Pa.C.S. §2301 et seq.).

A statewide referendum would be submitted to the voters and, upon approval of the electorate, the Commonwealth would incur indebtedness of \$20,000,000 for loans to police agencies for purposes described above.

While Senate Bill 267 would establish the Police Agency Loan Act as a freestanding statute, House Bill 541 would incorporate this act as part of Title 53 (Municipalities Generally) of the Pennsylvania Consolidated Statutes. Senate Bill 267, as of the writing of this report, remains in the Senate Local Government Committee while House Bill 541 is in the House Veterans Affairs and Emergency Preparedness Committee.

4. *Municipalities should be authorized, pursuant to their respective municipal codes, to levy a special dedicated tax for funding police services. The amount of the real estate tax, not to exceed 10 mills, would be utilized to support existing police departments (regional or municipal), or to pay for contractual obligations that a municipality has incurred when purchasing police services from another municipality. The language would be similar to that currently found in the municipal codes for fire protection, ambulance and rescue services, street lighting, debt service, etc.*

The municipal codes (ie., Borough Code, First Class Township Code, Second Class Township Code, and Third Class City Code) permit the levy of special purposes taxes to retire debt, provide for shade trees, street lighting, recreation, fire protection, ambulance and rescue squads, etc. Ranges of the special millage tax may be as little as 1/10 mill for shade trees to no limit for debt service. The Pennsylvania State Association of Township Supervisors, acting on its own behalf as well as on behalf of the Pennsylvania State Association of Boroughs and the County Commissioners Association of Pennsylvania, recommended to the Task Force that the above Codes be amended to allow municipalities to petition the court of common pleas for the right to levy an additional 10 mills of real estate tax if a municipality funds a municipal or regional police department. In addition, the Task Force recommends extension of this levy to municipalities which choose to contract with another municipality for police services.

5. *Greater use of the Shared Municipal Services Program. Section 301 of the Community and Economic Development Enhancement Act, Act 58 of 1996, authorizes DCED to provide*

grants to municipalities as incentives for undertaking intergovernmental cooperation efforts. In FY 1999-2000, the General Assembly appropriated \$900,000 for this program. Eligible activities for this program have included: combined police records administration, shared personnel activities, joint ownership of equipment, shared data processing operations, joint sign making, Councils of Governments start-up funding, etc. Since FY 1994-95, 36 grants totaling \$381,800 have been awarded to police departments for various purposes under the Shared Municipal Services Program. The Task Force recommends that this program be retained, and that adequate funding be provided by the General Assembly, particularly as it applies to grants for local police activities.

As originally authorized by Act 78 of 1970, the Shared Municipal Services Program is intended as an aid and incentive for local governments undertaking intergovernmental cooperation efforts. The purpose of the Program is to promote cooperation between neighboring municipalities and to encourage communities to discover those municipal functions they can provide more efficiently and effectively together than they can separately. A Council of Governments (COG) can apply for a shared services grant. Any group of two or more cooperating municipalities is also eligible. A COG is a voluntary association of local government units cooperating on an intermunicipal basis. Eligible activities for the Shared Municipal Services Program include combined police records administration, shared personnel activities, joint ownership of equipment, shared data processing operations, joint sign making, and COG start-up funding. In FY 1998-99 and again in FY 1999-2000, the General Assembly appropriated \$900,000 for this program. Use of the Shared Municipal Services Program for municipal police was discussed in a report by the Legislative Budget and Finance Committee on assessing the current statutory cap of the State Police complement. Because grants from the Shared Municipal Services Program are utilized for other activities besides policing, the Task Force recommends and encourages DCED to endeavor that a significant portion of these monies be used for police services.

6. *The General Assembly should consider the appointment of a select committee to deal with issues relating to police pensions including provisions concerning portability among the various police retirement systems, or that due consideration be given to creating a uniform pension system for police officers.* The Task Force discussed and considered creation of a uniform pension system and the police pension portability issue. Due to the complexity of this issue and concerns related to the transfer of service credits and pension assets, as well as the problems associated with the potential impact on state funding, it was decided that this matter would best be explored as a single subject by a select committee reflecting expertise on pension issues. The Task Force further recommends that any examination of police pensions give special consideration to the burdens that may be placed upon municipalities with regard to this matter.

The House Resolution 167 Task Force examined the possible creation of a uniform municipal police pension system or providing portability among existing police pension laws. Currently, according to the Pennsylvania Employee Retirement Commission (PERC), Pennsylvania has approximately 973 municipal pension plans, 918 with defined benefits and 55 without defined benefits. They range from 6,597 active members to 1 active member. Over half of the pension plans (528) have less than 5 active members. In discussing the advantages of the single, uniform pension system, PERC indicated to the Task Force that three major arguments exist for support of a single system. They are: (1) by replacing

2,700 administrative units with one administrative unit, the Commonwealth will be administering municipal pension benefits the same way all other states do and also experience the associated operational efficiencies; (2) a statewide retirement system for local employees would provide a uniform structure of benefits with eight optional membership classifications that accommodate the varying needs of local governments; and (3) making an extended transition to one administrative agency would, among other things, minimize the impact on private sector service providers, eliminate duplication of administrative functions and reduce the annual administrative costs, and improve administrative functions by ensuring a consistent level of performance through the use of full-time professional staff. On the contrary, PERC also explained that there are disadvantages to a single pension system. These include: (1) municipalities will lose control of their pension systems; (2) the implementation of a statewide retirement system is a step toward "big government" and any activity managed at the state level is suspect; and (3) the statewide local government retirement system would potentially complicate the provision of employee retirement benefits during the transitional period which would ultimately cost more than current local retirement systems.

In relation to pension portability, other than mandating a statewide change to a defined benefit contribution plan, pension portability could best be achieved for municipal police officers through the establishment of one cost-sharing, multi-employer, defined benefit retirement plan. PERC stated that this approach is evident in the State Employees' Retirement System, which provides for portability among 107 state-related employers, and in the Public School Employees' Retirement System, which provides for portability among 640 public school employers. Because employee movement would be within one retirement system with standard actuarial methodology and benefits, there is no potential for the inequity that is inherent with the alternative approaches. The alternative approaches, which endeavor to provide portability within the existing local government systems, are extremely complex administratively and have substantial potential for employer and employee inequity. The complexity and inequity result because the alternative approaches must: (1) accommodate over 900 separate pension plans with a myriad of benefit designs; (2) effect asset transfers calculated with varying actuarial methodologies; and (3) operate without a coordinating administrative structure for the required intermunicipal transactions. Pension portability, according to PERC, would: (1) more nearly establish a free market for labor; (2) provide improved access to experienced personnel; (3) reduce recruiting and training costs for municipalities hiring police; and (4) provide increased opportunity for career advancement of police officers. However, according to PERC, pension portability would also: (1) reduce the ability of municipalities to retain personnel; (2) produce the loss of trained and experienced police officers; (3) increase recruiting and training costs for municipalities losing employees, and shift training costs, in the aggregate, from larger municipalities to smaller ones; and (4) eliminate actuarial gains which are currently achieved through employee terminations prior to vesting availability. The Task Force expressed concern regarding the alternative approaches to effect portability among the over 900 local retirement plans, i.e., the service credit transfer approach and the benefit earned transfer approach. Furthermore, the Task Force recognized a number of disadvantages to these alternative approaches, including, among other things, the following: (1) The multitude of pay scales, benefit structures, actuarial assumptions, and other factors impacting the calculations required to make the needed asset transfers will produce ongoing inequities for municipalities and employees. (Example: Two identical employees in two different municipalities could transfer to a third municipality and be given different service credits.); (2) The two actuarial calculations needed for each instance of pension portability will increase administrative costs. (Note: Since the employee and the municipalities will

need to know the calculations before the employment decision is finalized, these costs will be incurred even when no portability is exercised.)

A number of representatives of the local government associations voiced their apprehensions regarding the establishment of a single pension system. These individuals opined that the utilization of the Pennsylvania Municipal Retirement System (PMRS) is more beneficial since it is locally controlled by local employees, local officials, and State officials; furthermore, it already is in existence. As a result, Local Government Commission staff met with the local government associations and PMRS to discuss the effect of a uniform municipal police pension system or provision for police portability on PMRS. One way to implement pension portability for municipal police officers, according to PMRS, would be to amend Act 205 of 1984, the Municipal Pension Plan Funding Standard and Recovery Act, to provide that every police pension plan that receives or has received state aid be required to grant and accept portability. Portability would be available to any officer who transfers from or to another police plan within a one year time period. There are two parts to the PMRS proposal: (1) the transfer of credited service, and (2) the transfer of assets. Advantages, policy issues, and potential problems regarding the aforementioned proposal were also discussed. Due to the complexity of the issue, the Task Force unanimously determined to include among its recommendations that the General Assembly consider the appointment of a select committee to deal with issues relating to police pensions, including provisions concerning portability among the various police retirement systems, or that due consideration be given to creating a uniform pension system for police officers, or, perhaps, all municipal employees. In addition, the Task Force emphasized that this recommendation should consider the financial burden any change in police pensions would have on municipalities.

7. *Creation of a Municipal Police Fund to provide grants for municipalities which are considering providing police services.* The Task Force recommends that, upon conviction, a \$25 surcharge be imposed for each misdemeanor of the third degree and above, and a \$50 surcharge be imposed for each felony. Monies generated from the surcharges will be deposited in a restricted account and administered by DCED to provide start-up costs or seed money for municipalities considering forming a police department, joining a regional police effort, or contracting for police services with a municipality(ies) for police protection. Grants administered by the Department could be used for various purposes, including salaries, buildings, equipment, weapons, etc.

During the course of its deliberations, the Task Force sought a means by which to encourage municipalities to provide for police protection for their residents either through the services of its own police department, a regional police department or, by contracting with another municipality that has a police force. At its April 27, 1999, meeting, the Task Force reviewed information provided by the Pennsylvania Commission on Crime and Delinquency that explained possible funding mechanisms through the imposition of a surcharge on misdemeanors of the third degree and above, exclusive of minor traffic violations. This recommendation had its origin in the 1996 PDRO study which advocated the imposition of a \$30 fee to be applied to all criminal convictions, exclusive of minor traffic violations, for the support of regional police departments. It was recognized that in order for police departments to perform their necessary duties, a State source of dedicated funding should be made available to them as an incentive to provide this public service. Initial Task Force discussions centered on the imposition of a surcharge

on convictions being divided into three parts: one third of the fee should be returned to a municipality for use by the police department; one third should be provided to assist municipalities in regionalization efforts if desired; and one third should be made available in the form of low interest loans for the purchase of structures, equipment, and vehicles. However, in light of support for House Bill 541 and Senate Bill 267, the Task Force ultimately decided that a dedicated funding source should be established by the imposition of a \$25 surcharge on misdemeanors of the third degree and above, and a \$50 surcharge on each felony conviction. Monies generated from the surcharges are to be deposited in a restricted account and administered by the Department of Community and Economic Development to provide start-up costs or seed money for municipalities which are considering forming a police department, joining a regional police effort, or contracting for police services with another municipality(ies) for police protection. Grants administered by the Department could be used for various purposes, including salaries, buildings, equipment, weapons, etc.

On June 8, 1999, PCCD projected the amount of fee collections that would be generated in accordance with this recommendation based upon convictions for misdemeanors of the third degree and above and felony offenses in Pennsylvania during 1996. See next page⁹⁶. The projections showed that based upon 1996 figures and assuming a 61% rate of collection, the restricted account would have been funded by approximately \$2,730,000. Of that total, \$1,787,250 would have been collected from misdemeanor convictions and \$942,750 would have been generated from felony convictions.

⁹⁶Prepared by the Pennsylvania Commission on Crime and Delinquency, June 8, 1999.

	CONVICTIONS & ARDs		ESTIMATED PAYEES (61%)		PROJECTED COLLECTIONS	
	Misdemeanors	Felonies	Misdemeanors	Felonies	Misdemeanors-\$25	Felonies-\$50
COMMON PLEAS LESS PHILA	98,173	18,012	59,886	10,987	\$1,497,150	\$549,350
PHILADELPHIA COMMON	0	12,783	0	7,798	\$0	\$389,900
PHILADELPHIA MUNICIPAL	13,082	115	7,980	70	\$199,500	\$3,500
DISTRICT MAGISTRATES	5,941		3,624	0	\$90,600	\$0
SUBTOTALS	117,196	30,910	71,490	18,855	\$1,787,250	\$942,750
TOTAL M3 & ABOVE		148,106		90,345		\$2,730,000

NOTES

Convictions and ARD data source, the Administrative Office of Pennsylvania Courts, docket transcript information for 1996.

The percentage (61%) applied in the Estimated Payees column is the 1996 collection level achieved for the crime victims fees which are assessed on all convictions and ARDs for DUI, crimes code, and drug offenses. Previous calculations utilized 59%, which was derived from preliminary data for 1996.

8. *Fine monies for most Title 75 Pa.C.S. (Vehicle Code) offenses and delineated summary offenses associated with provisions of Title 42 Pa.C.S. (Judicial Code) §§3571 and 3573 should be redistributed to the entity issuing a citation.* The Task Force determined that, in terms of promoting fairness and equity, fine monies derived from State Police citations and municipal police citations should be retained for the benefit of those respective entities making the arrests. Moreover, the Task Force did not contemplate or intend any impact on 42 Pa.C.S. §3733, which provides for the Judicial Computer System Augmentation Account. Under this recommendation, the following results would be obtained:

(a) The Commonwealth, under 42 Pa.C.S. §3571(b)(2), would retain \$13.30 million (FY 1998-99 dollars) from fines generated by the arrests made by the State Police for most Vehicle Code violations. Currently, this money is distributed to all municipalities in Pennsylvania based upon the liquid fuels allocation formula. According to information provided by the Administrative Office of Pennsylvania Courts, the Commonwealth would also receive an additional \$3.30 million (1998 dollars) from summary offense convictions delineated under 42 Pa.C.S. §3573 (c) in those instances in which State Police action is involved. The Task Force recommends that these amounts be dedicated to the State Police to reimburse them for costs associated with providing police services to those municipalities without police departments.

(b) Municipalities now providing for local policing (through their own police department, regional police department, or by contracting) would receive a net of \$13.81 million now deposited into the state Motor License Fund under 42 Pa.C.S. §3571(b)(3) (i.e., \$21.02 million deposited into the Motor License Fund generated from local citations minus \$7.21 million transferred to the Judicial Computer System Augmentation Account in accordance with 42 Pa.C.S. §3733). Also, municipalities will retain monies generated from fines for specific summary offenses under 42 Pa.C.S. §3573(c) involving local police action. This amounted to \$8.15 million in 1998.

(c) The Commonwealth would lose approximately \$5.06 million from monies now deposited in the Motor License Fund, most of which is derived from funds generated from municipal police action under §3571(b)(3).

(d) Municipalities, even those that provide for local policing, would no longer receive monies from State Police citations which currently are distributed automatically to all local governments under 42 Pa.C.S. §3571(b)(2). In addition, municipalities would no longer receive fines from State Police citations issued in those municipalities for specified summary offenses under 42 Pa.C.S. §3573(c). This amount, estimated to be \$3.30 million, will now be redirected to the State Police. Currently, municipalities, even those that do not provide for local policing, receive fines for summary offenses committed within their jurisdiction.

In response to the proposal of the Governor's Budget Office to impose a charge for State Police protection on those municipalities having populations in excess of 9,000 but not providing for local policing, the Task Force examined other means by which to explore alternative funding mechanisms to provide fairness and equity to all parties concerned. Data submitted to the Task Force by the State Police and the Budget Office early in the deliberations of the Task Force was admittedly problematic

in relation to an accurate assessment of State Police costs in patrolling those municipalities which otherwise would be charged for State Police protection.

In addition, if the Commonwealth were to charge municipalities for providing State Police service, unanswered policy questions remain. For instance, if a municipality is required to compensate the State Police, would that not place greater demand on the State Police's current complement of troopers and resources? If the State Police is compensated for police services, should they not also enforce local ordinances and regulations since they are the sole law enforcement entity within the municipality? In response to these questions, the State Police, in correspondence dated June 1, 1999, to the Task Force, concluded that they did not anticipate the institution of any new services as a result of the municipal fee proposal. The State Police further stated that the services which are the object of the proposal are already being provided to the Commonwealth by the State Police. With regard to the question of enforcement of local ordinances, they believe it to be impractical to expect that the State Police could accurately maintain the codified governmental actions and specific knowledge required for troopers to enforce local ordinances in the numerous municipalities that the Department serves. Moreover, the State Police specifically stated that "[t]he municipal fee proposal simply seeks reimbursement to the Commonwealth for services *already* provided by the Pennsylvania State Police, and is not intended to carry any budgetary impact."

Cognizant of the desire to provide equity in local policing and also to support the intent of House Resolution 167, the Task Force found that fairness and equity are best achieved by allowing the entity that issues citations pursuant to 42 Pa.C.S. §3571 (Commonwealth portion of fines) and 42 Pa.C.S. §3573 (Municipal corporation portion of fines) to retain the monies derived therefrom. The net effect of such a redistribution of fines monies is:

(1) The State will receive monies for most Vehicle Code violations in which the State Police issue a citation, one half of which currently is distributed to all municipalities based upon the liquid fuels allocation law. This amounted to \$13.30 million in FY 1998-99. See 42 Pa.C.S. §3571 (b)(2). The same amount, \$13.30 million (1998 dollars) would go into the Motor License Fund. Applying the 1986-87 "cap" required by 42 Pa.C.S. §3733, \$3.41 million would then be transferred to the Judicial Computer System Augmentation Account. See also 42 Pa.C.S. §3571(b)(2). In addition, the Commonwealth would receive an additional \$3.30 million (1998 dollars) for the conviction of summary offenses under 42 Pa.C.S. §3573 (c) in those instances in which the State Police issued the citation. Currently, the fine monies are forwarded to the municipality, regardless of whether there is a local police presence, in which the citation is issued. With the reallocation of citation monies as recommended by the Task Force, the Department of Revenue estimates the overall loss to the Commonwealth to be \$5.06 million. See page 128. The Task Force further recommends that the Commonwealth dedicate the fine monies generated by State Police arrests (which currently are distributed to local governments under 42 Pa.C.S. §3571(b)(2) and §3573(c)) to the State Police to reimburse them for the cost of patrolling municipalities without local policing.

(2) Municipalities maintaining a local police presence through their own police department, regional police department, or by contracting will receive an additional \$13.81 million for citations issued for most Vehicle Code violations when the prosecution results from local police action. This amount is currently payable to the Commonwealth and deposited into the Motor License Fund pursuant to 42 Pa.C.S. §3571(b)(3). This amount is calculated by applying the 1986-87 "cap" to the \$21.02 million (i.e., the amount generated from municipal citations and deposited into the Motor License Fund), thereby leaving \$7.21 million to be transferred to the Judicial Computer System Augmentation Account. Municipalities with local policing will also retain the \$21.02 million now payable to them pursuant to 42 Pa.C.S. §3573(b)(2). Additionally, municipalities with local policing will keep approximately \$8.15 million (1998 dollars) out of \$11.51 million distributed to all municipalities from both State and local police citations in 1998 from fines generated from prosecution of delineated summary offenses under 42 Pa.C.S. §3573(c). See pages 125-126.

(3) The entitlement for all municipalities which is currently funded from State Police citations issued for most Vehicle Code violations and distributed pursuant to the liquid fuels allocation formula in accordance with 42 Pa.C.S. §3571(b)(2) will be terminated. As stated above, this allocation amounted to \$13.30 million in FY 1998-99. In addition, municipalities will no longer receive approximately \$3.30 million in fine monies generated from State Police arrests made pursuant to 42 Pa.C.S. §3573(c). These monies will be redistributed to the Commonwealth for use by the State Police. Municipalities with a local police department issuing citations for summary offenses dedicated under 42 Pa.C.S. §3573(c) will receive fine monies generated therefrom.

This proposal does not affect the provisions of 42 Pa.C.S. §3733 which funds the Judicial Computer System Augmentation Account initiated by Act 64 of 1987. Effectively, Act 64 caps the amount going into the Motor License Fund from police fines and other fines and retained therein at those levels collected in FY 1986-87. Monies generated above that cap are transferred to the Judicial Computer System Augmentation Account. In a letter dated June 21, 1999, to Virgil F. Puskarich, Executive Director of the Local Government Commission, Nancy M. Sobolevitch, Court Administrator of Pennsylvania, expressed concern that Recommendation #8 as originally written would be devastating upon the dedicated funding established by Act 64 of 1987 for development and operation of the Judicial Computer System. In an effort to alleviate the concerns of the Court, the caps established by Act 64 remain in place with the further recommendation that the transfer of monies from the Motor License Fund from fines generated by both State and municipal police remain in effect. The proposed amendment to §§3571 and 3573 simply reallocates fine monies to the source from which the monies are derived.

Data collected from the Pennsylvania Department of Revenue indicates that for the last several fiscal years, municipal police fines deposited into the Motor License Fund for State use have increasingly exceeded monies generated from State Police citations that are redistributed back to municipalities. See page 129. The loss of approximately \$5.06 million to the

Commonwealth as the result of this recommendation can be attributed to greater subsidizing of the Motor License Fund based upon municipal fine monies as compared to the amounts distributed to municipalities derived from State Police fines. The loss of \$2.29 million to municipalities will be mostly borne by municipalities offering no local police option since they will not be receiving the automatic allocation of State Police fine monies and will also be losing approximately \$3.30 million in specific summary offense fines. Many municipalities with local policing should receive a net gain in revenue since they will be retaining municipal police fine monies and delineated summary offense monies.

Current Law - 42 Pa.C.S. §§ 3571, 3573 (Commonwealth/Municipal portion of fines)

[Certain amounts collected are subject to 42 Pa.C.S. §3733 which provides that fines, fees and costs collected by any division of the unified judicial system, except those allocated or directed to counties, municipalities, and certain other named entities, which are in excess of the amount collected from such sources in the fiscal year 1986-1987 shall be deposited in the Judicial Computer System Augmentation Account.]

Who gets the \$ → From what ↓	<u>Fines going to the Commonwealth</u>	<u>Fines going to municipalities</u>
When Vehicle Code prosecution is the result of State Police action →	3571(b)(2): "Except as provided [for Vehicle Code violations relating to snowmobiles or involving DUI or controlled substances]..., when prosecution under any other provision of Title 75 (relating to vehicles) is the result of State Police action, ...fines...shall be payable to the Commonwealth, for credit to the Motor License Fund." [BUT SEE NEXT COLUMN →]	3571(b)(2): "One-half of the revenue [i.e., 1/2 of the fines payable to the Commonwealth, for credit to the Motor License Fund AS PROVIDED IN THE PREVIOUS ← COLUMN] ...shall be paid to municipalities in the same ratio provided in [Act]...655 [of 1956] relating to partial allocation of liquid fuels and fuel use tax proceeds."
When Vehicle Code prosecution is the result of local police action →	3571(b)(3): "...when prosecution under any other provision of Title 75 is the result of local police action, one-half of...fines...shall be payable to the Commonwealth, for credit to the Motor License Fund."	3573(b)(2): "Except as provided [for Vehicle Code violations relating to snowmobiles or involving DUI or controlled substances]..., when prosecution under any other provision of Title 75...is the result of local police action, one-half of...fines... shall be payable to the municipal corporation under which the local police are organized."
Summary offenses, regardless of whether state, local, or no police action is involved →		3573(c): "Summary offenses.--Fines,...under [delineated summary offenses]...shall, when any such offense is committed in a municipal corporation, be payable to such municipal corporation."

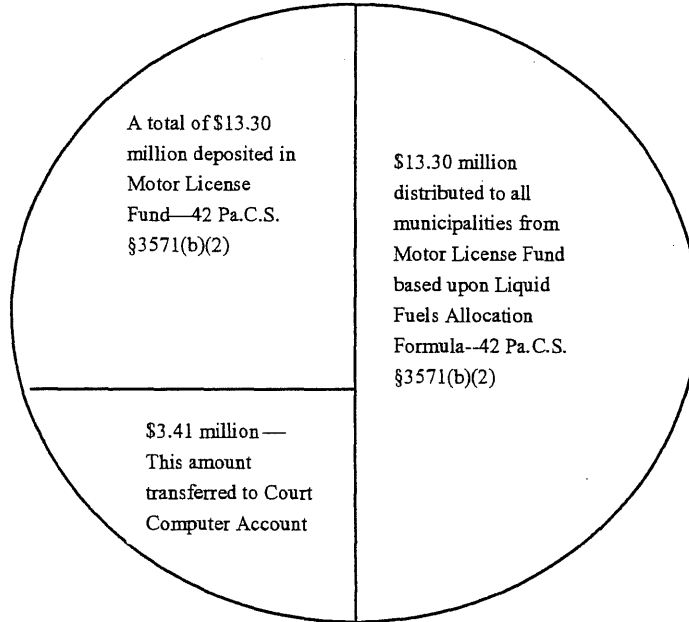
Proposed changes to 42 Pa.C.S. §§3571, 3573 (Commonwealth/Municipal portion of fines)

[To the extent that fines, except those which under current law are exempt because they are allocated or directed to counties, municipalities, or other named entities, are in excess of the amount collected in the fiscal year 1986-1987, they shall remain subject to the cap set forth in 42 Pa.C.S. §3733 which provides that the excess shall be deposited in the Judicial Computer System Augmentation Account.]

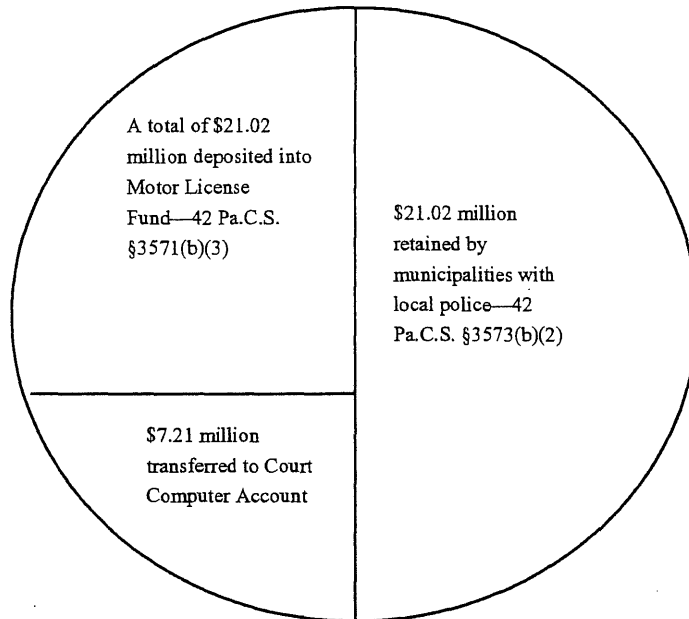
Who gets the \$ → From what ↓	<u>Fines going to the Commonwealth</u>	<u>Fines going to municipalities</u>
When Vehicle Code prosecution is the result of State Police action →	Except as provided [for Vehicle Code violations relating to snowmobiles or involving DUI or controlled substances]..., when prosecution under any other provision of Title 75 (relating to vehicles) is the result of State Police action, fines shall be payable to the Commonwealth, with the suggestion that 1/2, after being subject to the required payment to the Judicial Computer System Augmentation Account, remain in the Motor License Fund, and the other 1/2 be used for the State Police (<u>not to be distributed to municipalities under liquid fuels as formerly was the case</u>).	
When Vehicle Code prosecution is the result of local police action →		Except as provided [for Vehicle Code violations relating to snowmobiles or involving DUI or controlled substances]..., when prosecution under any other provision of Title 75...is the result of local police action, ½ of fines shall continue to be payable to the municipal corporation under which the local police are organized, and the remaining funds, after being subject to the required payment to the Judicial Computer System Augmentation Account, will be distributed by a State agency on a proportionate basis to municipalities providing for local police services.
Summary offenses, when prosecution is the result of State Police action →	Fines under delineated summary offenses shall, when prosecution is the result of State Police action, be payable to the Commonwealth for use of the State Police.	
Summary offenses, when prosecution is the result of local police action →		Fines under delineated summary offenses shall, when prosecution is the result of local police action, be payable to the municipality providing or contracting for the local police.
Summary offenses, when no police are involved in the prosecution →		Fines under delineated summary offenses shall, when no police are involved in the prosecution, be payable to the municipality where the offense occurred.

CURRENT LAW

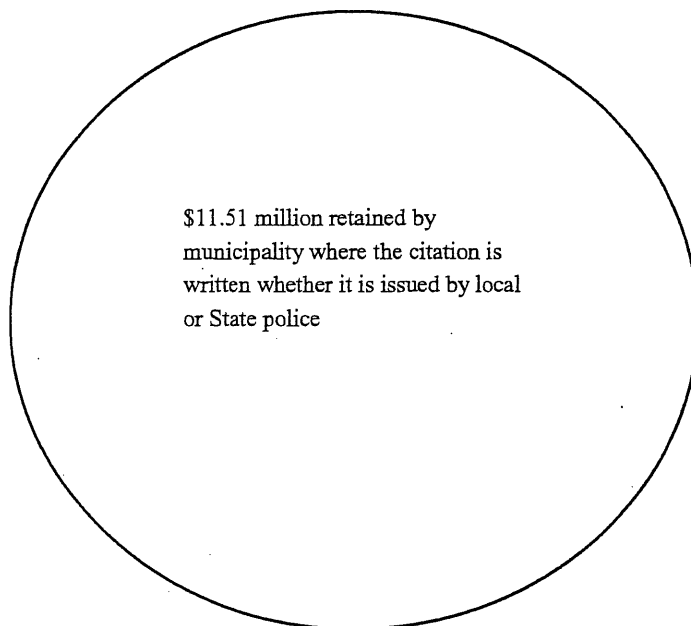
State Police Citations – Fine Monies Generated Pursuant to 42 Pa.C.S. §3571(b)(2)



Municipal Police Citations – Fine Monies Generated Pursuant to 42 Pa.C.S. §3573(b)(2)

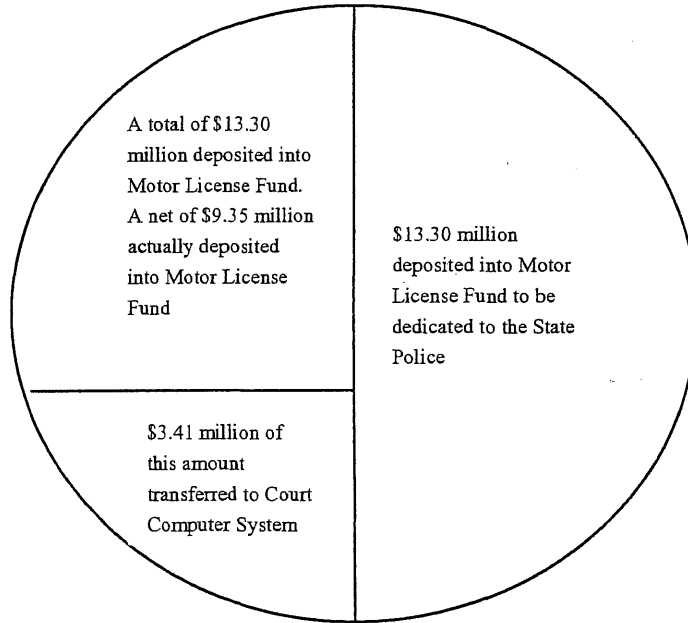


Distribution of Dedicated Summary Offense Fine Monies Pursuant to 42 Pa.C.S. §3573(c)

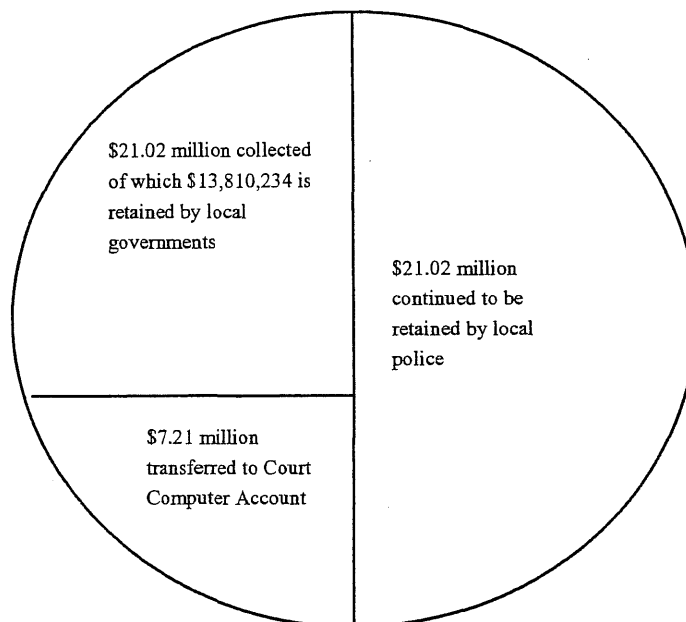


PROPOSED CHANGES IN FINE DISTRIBUTIONS PURSUANT
TO RECOMMENDATION #8

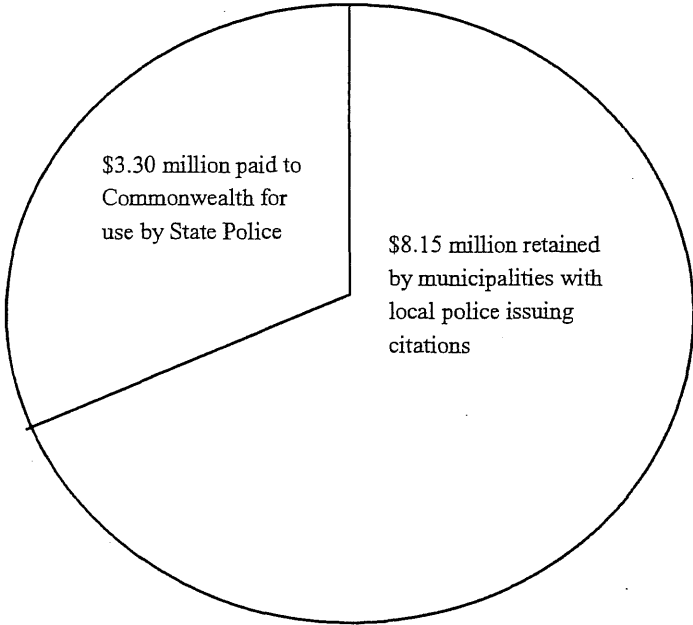
State Police Citations Under 42 Pa.C.S. §3571(b)(2)



Municipal Police Citations Under 42 Pa.C.S. §3573(b)(2)



Distribution of Delineated Summary Offense Fine Monies Pursuant to 42 Pa.C.S. §3573(c)





COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF REVENUE
DEPT 280603
HARRISBURG PA 17128-0603

HR167 TASK FORCE – RECOMMENDATION 8

DISTRIBUTION OF FINES
MUNICIPAL REVENUE IMPACT

Current Municipal Revenue FY 98-99

50% of Local Police Fines Paid To Municipality	\$ 21,021,377	
50% of State Police Fines Distributed To All Municipalities	12,749,022	
Delineated Non-Traffic Summary Fines (42 P.S. § 3573 (c))	<u>11,509,649</u>	
Total Current Municipal Revenue	45,280,048	\$ 45,280,048

Municipal Revenue Per Recommendation 8

50% of Local Police Fines Paid to Municipality	21,021,377	
Act 64 Cap Amount for Local Police Fines Paid to MLF and Returned to Same Municipalities	13,810,234	
Delineated Non-Traffic Summary Fines (42 P.S. § 3573 (c)) Paid to Municipality	<u>8,151,985</u>	
Total Municipal Revenue Per Recommendation 8	\$ 42,983,596	- <u>42,983,596</u>
Net Municipal Revenue Impact (Loss)		\$ (2,296,452)



COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF REVENUE
DEPT 280603
HARRISBURG PA 17128-0603

HR167 TASK FORCE – RECOMMENDATION 8

DISTRIBUTION OF FINES
STATE REVENUE IMPACT

Current State Revenue FY 98-99

Local Police Fines	\$ 21,021,377	
PSP Fines	12,760,915	
PSP & Local Police Overweight Truck Fines	<u>1,179,443</u>	
Total Current State Revenue	34,961,735	\$ 34,961,735

State Revenue Per Recommendation 8

50% of PSP Fines Paid to PSP *	13,303,503	
50% of PSP Fines Paid to MLF *	13,303,503	
Redistribution of Delineated Non-Traffic Summary Fines (42 P.S. § 3573 (c))	<u>3,297,349</u>	
Total State Revenue Per Recommendation 8	\$ 29,904,355	<u>- 29,904,355</u>
Net State Revenue Impact (Loss)		\$ (5,057,380)

* Amount Includes Overweight Truck Fines



COMMONWEALTH OF PENNSYLVANIA
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TRAFFIC FINES COLLECTIONS HISTORY

<u>Fiscal Year</u>	<u>PA State Police</u>	<u>% Change Prior Year</u>	<u>Local Police</u>	<u>% Change Prior Year</u>
1994-95	\$ 14,254,423		\$ 17,375,675	
1995-96	\$ 12,110,234	-15%	\$ 18,959,535	+9%
1996-97	\$ 11,857,407	- 2%	\$ 18,077,460	-5%
1997-98	\$ 12,709,466	+ 7%	\$ 19,424,999	+7%
1998-99	\$ 12,749,022	0%	\$ 21,021,377	+8%
TOTAL	\$ 63,680,552	-10%	\$ 94,859,046	+19%

**LISTING OF REPORTS SUBMITTED TO THE
HOUSE RESOLUTION 167 TASK FORCE**

**THESE REPORTS MAY BE ACCESSED FROM THE INTERNET WEBSITE -
*WWW.LGC.STATE.PA.US***

AUTHOR OF REPORT	TITLE OF REPORT	DATE
James Allen PA Municipal Retirement System	Concept Paper: Pension Portability	5/24/99
Robert Bittenbender Governor's Office of the Budget; Paul Evanko PA State Police	State Police Costs of Providing Local Services and Establishment of a Per Capita Charge	12/10/97
Bureau of Municipal Services PA Department of Transportation	Provisions of Title 42 PACS 3571, 3573 & Allocations	6/2/99
Thomas Corbett PA Commission on Crime & Delinquency	Constables' Law Enforcement Powers	11/26/97
Thomas Corbett PA Commission on Crime & Delinquency	Duties and Responsibilities of Sheriffs, Deputy Sheriffs, and Constables	3/4/99
Thomas Corbett PA Commission on Crime & Delinquency	Status Summaries--Police Corps Program	5/28/99
Paul Evanko PA State Police	Research on Municipal Police Jurisdiction, Training, etc.	1/8/98
Colleen Fickel PA Board of Probation & Parole	Duties and Responsibilities of County & State Probation and Parole Officers	11/19/98
Rosemary Gido Indiana University of Pennsylvania	Request for Proposal--Local Law Enforcement Police Protection	11/19/97
Rosemary Gido Indiana University of Pennsylvania	County Police Departments	3/5/99
Douglas Hill County Commissioners Association of PA	Allegheny County Police Analysis/County Park Police Analysis	12/11/97

AUTHOR OF REPORT	TITLE OF REPORT	DATE
Thomas Kamerzel PA Fish and Boat Commission	Fish and Boat Commission Enforcement	11/24/97
Patrick Kielty PA Local Government Commission	Municipal Authority Police and Port Authority Police	12/11/97
Patrick Kielty PA Local Government Commission	Campus Police Duties, Responsibilities, Training Requirements, and Arrest Powers	4/8/98
Patrick Kielty PA Local Government Commission	Constitutionality of Requiring Municipalities to Increase Millage Rates	8/13/98
David Kwait Office of Attorney General; Dennis Rickard PA Sheriffs Association	Police Powers of Sheriffs and Deputy Sheriffs	11/25/97
David Kwait Office of Attorney General	Arrest and Investigative Powers of BCI and BNI and Drug Control	2/27/98
David Kwait Office of Attorney General	Duties and Responsibilities of Investigators from BCI and BNI	3/10/99
Thomas Littwin PA Game Commission	Pennsylvania Game Commission Law Enforcement	10/29/97
Emil Minnar PA State Constables Association	Response to Pennsylvania Commission on Crime and Delinquency Report on Constables	2/25/98
JoAnn Mitchell Legislative Reference Bureau	Impact on Article III, Section 31	12/11/97
William Parkes Governor's Budget Office	Costs Associated with Developing Uniform Training Program	3/3/99

AUTHOR OF REPORT	TITLE OF REPORT	DATE
PA State Association of Township Supervisors; PA State Association of Boroughs; County Commissioners Association of PA	Intermunicipal Cooperation	4/26/99
Robert Pryal PA Board of Probation and Parole	Powers of State and County Probation and Parole Officers	12/11/97
Dennis Rickard PA Sheriffs Association	Expenditures Incurred by Sheriffs on a County by County Basis	2/25/98
Anthony Salomone Public Employee Retirement Commission	Creating a Uniform Municipal Police Pension System	3/8/99
Anthony Sarcione PA District Attorneys Association	Law Enforcement Responsibilities of Detectives under Jurisdiction of the District Attorney's Office	12/11/97
Anthony Sarcione PA District Attorneys Association	Duties and Responsibilities of County Detectives	1/28/99
Stephen Spangenberg PA Commission on Crime & Delinquency	Estimates of the Collection of a Fee Used to Support Regional Law Enforcement	4/26/99
Stephen Spangenberg PA Commission on Crime & Delinquency	Projected Fee Collections--Misdemeanor and Felony Offenses	6/8/99
Stephen Spangenberg PA Commission on Crime & Delinquency; Ronald Stern Department of Community & Economic Development	Fee Support for Policing in Pennsylvania--Collections and Methods of Distribution	5/21/99
Ronald Stern Department of Community & Economic Development	Municipal Police Expenditure Report	11/18/97

AUTHOR OF REPORT	TITLE OF REPORT	DATE
Ronald Stern Department of Community & Economic Development	Statistical Information on Regulating Police Departments/Information on COPS Program	2/25/98
Ronald Stern Department of Community & Economic Development	Neighborhood Assistance Program/Shared Municipal Services Program	4/26/99
Ronald Stern Department of Community & Economic Development	Consolidated Police Agencies in Pennsylvania 1998 (Chart)	6/2/99
Representative Thomas Tangretti PA House of Representatives	Recommendations to HR 167 Task Force -- State Agency Liaison	3/3/99
Daryl Walker Administrative Office of PA Courts	Report Regarding Distribution of Monies to Local Governments	5/19/99
Wesley Waugh PA State Police	State Police Protection Costs; Demographic Information on Municipal Police Departments	1/21/98
Wesley Waugh PA State Police; Stephen Spangenberg PA Commission on Crime & Delinquency; John Stuckert Office of Attorney General; Colleen Fickel PA Board of Probation and Parole	Uniform Basic Training Program + Addendum Report	3/3/99 6/9/99
Wesley Waugh PA State Police	Duties and Responsibilities of Campus Police, Allegheny County Police, Airport Authority, Allegheny Port Authority, Delaware River Port Authority, SEPTA, Housing Authority, County Park Police, Municipal Police, and Pennsylvania State Police	4/27/99

