

To: Pennsylvania Fraternal Order of Police, Pennsylvania Sheriffs Association, Pennsylvania State Troopers Association, Pennsylvania County Detectives Association, Chiefs of Police, Sheriffs, State Troopers, and any and all Law Enforcement Officers and Agencies in the Commonwealth, Townships, Cities, Boroughs, Wards, and Municipal or County Governments, and any Interested Parties or Citizens

Re: Pennsylvania State Constables' arrest and investigative authority, use of emergency vehicle lighting and equipment, status as peace officer and police officer generally, and access to criminal databases

To the above mentioned entities, organizations, and officers: Greetings.

This letter is sent in order to provide clarification regarding the office of constables, and the powers, rights, duties, responsibilities, and privileges that are peculiar to this office. There has been much false information distributed about this office, whether by unintentional misinterpretation or misinformation, or some by malicious actions by those with ill intent. Nevertheless, this letter will provide you with the correct information regarding the authority of constables and their deputies.

### **Powers of Arrest**

Firstly, the authority of constables to arrest, and by extension, cite, for crimes other offenses. The authority of constables to arrest is found in **Act 49 of 2009, subsection 7158**, which states,

*“In addition to any other powers granted under law, a constable of a borough shall, without warrant and upon view, arrest and commit for hearing any person who:*

- (1) Is guilty of a breach of the peace, vagrancy, riotous or disorderly conduct or drunkenness.*
- (2) May be engaged in the commission of any unlawful act tending to imperil the personal security or endanger the property of the citizens.*
- (3) Violates any ordinance of the borough for which a fine or penalty is imposed.”*

This is functionally equivalent to that of municipal police officers and is in fact identical. The authority of Police Officers to arrest is found in **Title 11, subsection 12005**, which states,

*“Police officers shall be ex-officio constables of the city and shall enforce the laws of this Commonwealth or otherwise perform the functions of their office in accordance with 42 Pa.C.S. §§ 8952 (relating to primary municipal police jurisdiction) and 8953 (relating to Statewide municipal police jurisdiction) and upon property owned or controlled by the city or by a*

*municipal authority created by the city. A police officer may, without warrant and upon view, arrest and commit for hearing any and all individuals:*

*(1) Guilty of:*

*(i) breach of the peace;*

*(ii) vagrancy;*

*(iii) riotous or disorderly conduct; or*

*(iv) drunkenness.*

*(2) Engaged in the commission of any unlawful act tending to imperil the personal security or endanger the property of the citizens.*

*(3) Violating any of the ordinances of the city for the violation of which a fine or penalty is imposed.”*

Additionally, Pennsylvania State Troopers also derive their arrest authority from that of the Constables, as evidenced in **Title 71, P.S. State Government Subchapter 252: the Pennsylvania State Police Force (Adm. Code Subchapter 712**, which states in part,

*“The various members of the Pennsylvania State Police are hereby authorized and empowered:*

*(a) To make arrests, without warrant, for all violations of the law, including laws regulating the use of the highways, which they may witness, and to serve and execute warrants issued by the proper local authorities. They shall have all the powers and prerogatives conferred by law upon members of the police force of cities of the first class, and upon constables of the Commonwealth;”*

Because Police Officers and State Troopers derive their authority to arrest from that of constables, (as described by the phrase “ex-officio constables”) and their power to arrest are described identically, then it is obvious that they share the same powers of arrest. That power is a sacred and necessary one, used to protect citizens of the commonwealth from violence and crime, and to hold those committing crimes accountable by arresting them, which includes issuing citations and initiating summary proceedings against them.

### **Powers of Criminal Investigation**

Although not routinely used, Pennsylvania State Constables DO have the authority to investigate criminal activity. These powers are found in **Act 49 of 2009, Subchapter 7157 (b)**, which states,

*“Appearance. A court may summon a constable to appear before it and direct the constable to investigate a complaint of a violation of law or of a condition which a constable is required to report to the court and to make a report of his investigation.”*

Therefore, at the behest of the courts, constables have the power to investigate a criminal violation and make a report of such. It should also be noted that County Detectives derive their powers from that of Constables as well, shown in **Title 16 P.S. Counties Subchapter 1440(d)**, which states,

*“(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 procedures and, in counties of the second class A, they shall serve subpoenas in cases in which the Commonwealth is a party in a court of record.”*

As such, it can be inferred that constables do have the statutory authority to investigate crimes, although it is not widely utilized or prevalent within the commonwealth.

### **Emergency Vehicle Lighting and Equipment**

Much debate has ensued over whether or not Constables can or cannot have emergency lighting within their patrol vehicles. However, upon close inspection, it is clear that not only can constables have emergency lighting in their vehicles, but that it is an essential part of their equipment.

Firstly, while constables may not be expressly named within Title 75, they do fall into the definition of “police officers” for the purposes of the statute. This can be seen in **Title 75, Chapter 1, Subsection 102**, which states in part,

*“Emergency service responder.” An individual acting in an official capacity as any of the following:*

*(1) A police officer.*

...

*“Emergency vehicle.” A State or county emergency management vehicle, fire department vehicle, police vehicle, sheriff vehicle, ambulance, advanced life support squad vehicle, basic life support squad vehicle, emergency canteen support service organization vehicle, blood delivery vehicle, human organ delivery vehicle, hazardous material response vehicle, armed forces*

*emergency vehicle, one vehicle operated by a coroner or chief county medical examiner and one vehicle operated by a chief deputy coroner or deputy chief county medical examiner used for answering emergency calls, a vehicle owned by or leased to a regional emergency medical services council that is used as authorized by the Department of Health to respond to an actual or potential disaster, mass casualty situation or substantial threat to public health, a vehicle owned by a county or regional police association and operated by a police officer that is used for police transport or victim extraction, a vehicle that is owned and operated by a county correctional institution in a city of the first class and used to respond to an emergency at a correctional institution in a city of the first class or to escort an ambulance which is transporting sick or injured prisoners in a city of the first class, any vehicle operated by a special agent, special agent supervisor,*

...

*(10) A police officer who is also a member of a county or regional municipal special emergency response team which is authorized to respond to emergencies under 42 Pa.C.S. § 8953 (relating to Statewide municipal police jurisdiction). ”*

Now, as stated above, this does not mention constables by name. However, it should be noted that constables meet the definition of “police officer” in this title, as seen here,

*“Police officer.” A natural person authorized by law to make arrests for violations of law.”*

As shown above in the previous sections, constables are authorized by law to make arrests for violations of law and therefore are police officers for the purposes of Title 75. As such, and as shown above, constables’ vehicles are police vehicles, as they are used by police officers in the performance of their duties.

Additionally, there are times that constables are mandated to perform traffic stops for certain violations as well, specifically for garbage and refuse disposal, as seen in **16 P.S. Subchapter 5180(1)**, which states,

*“It shall be unlawful for any person to transport or cause to be transported any garbage over any public highway in the county in any vehicle unless such person has applied to and received from the county commissioners of the county, as in this act provided, a transportation license in respect of such vehicle. Such license shall be in the possession of the driver of such vehicle at all times when garbage is being transported therein and until such vehicle has been thoroughly flushed out and cleaned after transporting garbage, and shall be exhibited to any county or municipal police officer, county road caretaker, constable, deputy constable, or other peace officer, or officer invested with the powers of a peace officer, upon his request.”*

Therefore, the equipment necessary to enact such a traffic stop as required by law is necessary in a vehicle used by a constable. Additionally, constable vehicles, while privately owned, are NOT

private vehicles. In May 2013, the Administrative Office of Pennsylvania Courts published a directive on PA Constables setting standards for the training and conduct of constables. However, it also included a mandate that all vehicles used by constables in the performance of judicial functions and duties must be:

1. In a “roadworthy condition,
2. Equipped with a permanent “prisoner cage,” with the same quality as that of police, and
3. Must contain a radio or other communication device.

As such, constable vehicles no longer meet the definition of a private vehicle, because a private vehicle is defined as,

“A vehicle that is used primarily for the private purpose of the person who owns it or of a person who otherwise having the right to use it.”

Under this definition, even though a constable’s vehicle is privately owned, it is being used for official state business and therefore should be treated as a state vehicle. This applied to any on-duty constable driving a vehicle with the mandated equipment installed.

Under **Title 75, Part 4, Subchapter D**, specifications are laid out for emergency vehicles, and the emergency lighting and equipment that is required within. As such, and keeping in mind that Constables fall under the definition of police for purposes of Title 75, any requirements or specifications for emergency vehicle lighting and equipment found in this chapter apply to any vehicle that is outfitted and used by Constables while on duty. This includes equipment such as red and blue emergency lights, sirens, computers, 2-way radios, etc.

Finally, Constables are authorized to direct vehicle traffic when needed. This is found in **Title 75, Subsection 3102**, which states,

*“No person shall willfully fail or refuse to comply with any lawful order or direction of:*

*(1) any uniformed police officer, sheriff, or constable or, in an emergency, a railroad or street railway police officer;*

*(2) any appropriately attired person, including an agent or employee of the funeral director during a funeral, authorized to direct, control or regulate traffic;*

*(3) any employee who has been trained in traffic control by a licensed and insured private security company and who is acting in the scope of employment; or*

*(4) any driver of a certified escort vehicle as defined under section 3108 (relating to drivers of certified escort vehicles) and who is acting in the capacity as a driver of a certified escort vehicle.”*

Under this statute, it is more than reasonable to assume that constables will require the need and use of emergency lights and equipment in order to fulfill their lawful requirements and duty to direct traffic.

### **A Historical View of Constables and Traffic Enforcement**

While vehicle stops by Constables are certainly not regular occurrences today, historically Constables have always been included in and given the ability to enforce Title 75 violations. These have been upheld by statutes and case law. And while Constables recently have gradually moved away or been forced away from enforcing these violations, they have historically had every right and authority to enforce these violations. I have included and referenced historical versions of statutes that will provide evidence for this below. These prior acts directed the enforcement of traffic by constables.

#### **General Assembly, 1903 Act 202 PL 268**

*Whereas, it is of the utmost importance to the rights of the people of this Commonwealth that the public highways of cities, boroughs, counties, and townships of this Commonwealth should be free as practicable from the reckless use of dangerous motor vehicles...section 9. Every person so licensed shall carry with him, when using or operating such motor vehicle upon the public highways, and when so requested by any constable or police officer of the Commonwealth shall produce the same and the certificate of registration for inspection...Section 10. It shall be the duty of the constables and police officers of the cities, boroughs, and townships of this Commonwealth to arrest, upon view and without a warrant, any person violating any provisions of this ACT...*

#### **1919 Act 283 PL 678 Vehicle Code Section 31**

*Constables and Police Officers of the State, and of the cities, boroughs, incorporated towns, townships, and counties of this Commonwealth, may arrest, upon view, any person or persons violating any provisions of this act, and such officers shall forthwith make and file with the mayor, burgess, magistrate, alderman, or justice of the peace, before whom such person arrested is taken, an affidavit setting forth in detail the offenses complained of, and at once furnish a copy thereof to the person arrested...*

#### **1923 Act PL 718 Section 26**

*Any constable or police officer or member of the State Police Force or designated officer of the State Highway Department, who shall be in uniform or shall exhibit his badge or other sign of authority, shall have the right to stop any motor vehicle, upon request or signal, for the purpose of inspecting the said motor vehicle as to its equipment or operation, or manufacture's number or motor number or weight, and securing such other information as may be necessary...*

**1927 Act 275 PL 421 Section 26**

*The operator of any vehicle shall stop upon request or signal of any constable, police officer, or member of the State Police Force...No such constable, police officer, or member of the State Police Force, or other person shall request or signal the operator of a motor vehicle to stop, for the purpose of selling tickets for charitable or other purposes, or for any form of solicitation whatever...*

**1951 Act 558 PL 1996 Vehicle Code**

*“Peace Officer” – A sheriff, deputy sheriff, constable, member of the PSP, state highway patrolman, of other police officer vested with authority of arrest...*

**1959 Act 32 PL 58 Vehicle Code ‘Peace Officer’**

*A sheriff, deputy sheriff, constable, member of the PSP, state highway patrolman, or other police officer, vested with authority of arrest, and such officers and soldiers...*

As you can see, constables have historically been vested with the power to enforce what are now Title 75 violations. Even now, constables have authority to enforce Title 75 violations, as long as they qualify as Breach of the Peace crimes. One of the most recent examples of this can be found in the caselaw **Commonwealth v. Allen, No. 1203 MDA 2018, Filed March 22, 2019**. The opinion of which states, in part,

*“In light of this Court’s understanding of what constitutes a breach of the peace for purposes of reviewing deputy sheriffs’ authority to conduct a Fourth Amendment stop, it is clear that patently disruptive, invasive, and dangerous nature of appellant’s underlying conduct clearly aligns with the ‘breach of the peace’ concept in this context.*

*Confronted with such conduct, the constables here acted within their common law powers when they walked to the driver’s side window, detained an ostensibly compromised appellant in a safe manner, and immediately called the proper authorities to investigate the incident.*

*Accordingly, we conclude that there is no merit to Appellant’s argument that his detention at the hands of Constable Metcalf and Gates until the Pennsylvania State Police arrived amounted to a violation of his Fourth Amendment rights requiring suppression of all DUI evidence subsequently obtained.*

**JUDGEMENT OF SENTENCE AFFIRMED**

*In view of relevant jurisprudence, we discern no basis for applying a different scope to the concept of ‘breach of the peace’ depending on whether a sheriff’s, a deputy’s or a constable’s, or a private citizen’s authority to affect a stop or arrest is under review.”*

As you can see, it is quite evident that, if reasonable suspicion exists, constables may perform vehicle stops for the purpose of enforcing “breach of the peace” crimes, including, at a minimum, portions of Title 75. As such, and as required in Title 75 regarding the use of emergency lighting, constables have the right to enforce and arrest for any breach of peace or violation of ordinance, which included certain traffic violations, and as such require emergency lights and equipment in their vehicles for this purpose.

**Constables’ Status as Peace Officers, Law Enforcement Officers, and Police Officers, generally**

There is a general misconception that constables are not full-power peace officers, and that they do not fit the definition of Peace Officers, or even Law Enforcement Officers. However, not only are constables’ peace officers and full-power law enforcement officers, but they are also Police Officers. Now, this does not mean, nor am I arguing that constables are Municipal Police Officers under Act 120, but rather that they fit the definition of “police” in the general sense AND in law.

**Title 234 Rules of Criminal Procedure – Rule 103**

*“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.*

*Police Officer: is any person who is by law given the power to arrest when acting within the scope of the person’s employment.”*

**Title 75 Chapter 1 Subsection 102**

*“Police Officer – A natural person authorized by law to make arrests for violations of law.”*

**Title 37 – Law, General Provisions, Chapter Subsection 21.1 Definitions**

*“LAW ENFORCEMENT OFFICER – A sheriff, deputy sheriff, constable, deputy constable, detective, police officer of this Commonwealth, or any political subdivision, school district, or municipal authority thereof.”*

**Title 3 Subsection 459-102 Definitions**

*“Police Officer: is any person employed or elected by this Commonwealth, or by any municipality and whose duty it is to preserve peace or to make arrests or to enforce the law. This term includes constables, and dog, game, fish, and forest wardens.”*



**1996 Act 151 PL Dog Law Definition of Police Officer**

*“The term includes constables and dog, game, fish, and forest wardens (changed from ‘state constabulary)’”*

**Title 18 – Chapter 5 – principles of Justification Subsection 501. Definitions**

*“Peace Officer: Any person who by virtue of his office or public employment is vested by law with a duty to maintain public order or to make arrests for offenses, whether that duty extends to all offenses or is limited to specific offenses, or any person on active State duty pursuant to 51 Pa.C.S Subsection 508 (relating to active duty for emergency). The term ‘peace officer’ shall also include any member of any park police department of any county of the third class.”*

As you can see, constables unequivocally meet the definition of not just Peace Officer, but also Law Enforcement Officer and Police Officer when it comes to their duties and employment. As such they may display on their uniforms or vehicles such terms such as peace officer, law enforcement, state law enforcement, or police.

**Access to Criminal Databases, including but not limited to CLEAN, NCIC, and UJS databases.**

To my knowledge, constables are the only law enforcement entities in the Commonwealth that are actively discriminated against when it comes to accessing law enforcement or criminal databases. . Constables qualify as Criminal Justice Agencies, as defined in **Title 18, subsection 9102**, which states

*“Any court, including the minor judiciary, with criminal jurisdiction or any other governmental agency, or subunit thereof, created by statute or by the State or Federal constitutions, specifically authorized to perform as its principal function the administration of criminal justice, and which allocates a substantial portion of its annual budget to such function. Criminal justice agencies include, but are not limited to: organized State and municipal police departments, local detention facilities, county, regional and State correctional facilities, probation agencies, district or prosecuting attorneys, parole boards, pardon boards, the facilities and administrative offices of the Department of Public Welfare that provide care, guidance and control to adjudicated delinquents, and such agencies or subunits thereof, as are declared by the Attorney General to be criminal justice agencies as determined by a review of applicable statutes and the State and Federal Constitutions or both.”*

Furthermore, being that constables clearly meet the definition of a Criminal Justice Agency, they therefore should be given, after proper training, the rights, responsibilities, and privileges found in **Title 18 Subsection 9106c**, which states in part,

*“(1) Intelligence information may be placed within an automated or electronic criminal justice information system and disseminated only if the following apply:*

*(i) The information is reliable as determined by an authorized intelligence officer.*

*(ii) The department, agency or individual requesting the information is a criminal justice agency which has policies and procedures adopted by the Office of Attorney General in consultation with the Pennsylvania State Police which are consistent with this act and include:*

*(A) Designation of an intelligence officer or officers by the head of the criminal justice agency or his designee.*

*(B) Adoption of administrative, technical and physical safeguards, including audit trails, to insure against unauthorized access and against intentional or unintentional damages.*

*(C) Labeling information to indicate levels of sensitivity and levels of confidence in the information.*

*(iii) The information is requested in connection with the duties of the criminal justice agency requesting the information, and the request for information is based upon a name, fingerprints, modus operandi, genetic typing, voice print or other identifying characteristic.”*

This means that every Constable's Office should have access to all criminal justice systems available to other agencies, including but not limited to the Commonwealth Law Enforcement Assistance Network (CLEAN), the National Crime Information Center (NCIC), the Pennsylvania Justice Network (JNET), and the Unified Judicial System of Pennsylvania (UJS). We cannot do our jobs effectively if we cannot access the same systems as our brother and sister agencies. We are actively informed that we cannot access any system that is in common use by other law enforcement, which includes databases such as CLEAN, NCIC, PennDOT DVS, and even the UJS system, despite the fact that constables are full-power law enforcement officers AND also perform more warrant arrests than any other agency in the Commonwealth. As of the writing of this letter, no law has prevented constables from accessing these systems, and only bad-faith policies by PCCD and AOPC on one side and PSP, who hold access to CLEAN, on the other side. Being that this letter is meant to clear up any misconceptions about constables, I am also penning this to inform those entities that the policies are in violation of good-faith agreements and constables should be granted access to these systems. AT A MINIMUM, constables, who perform many instances of warrant and process service on a daily basis, should be given access to the UJS portal and CLEAN. If this is not remedied, then we will consult with the proper authorities and take the necessary action, legal or otherwise. Constables are law enforcement officers, and we deserve the rights, protections, and privileges necessary to complete our duties.

At long last, the end of this brief is near. I sincerely hope that you will take the opportunity to not only learn from this letter, but to see for yourself by doing your own research. Do not listen to others who may try to twist or purposely misinterpret current laws to discredit the hardworking men and women who make up the ranks of the Pennsylvania State Constables. Don't take what I have to say as gospel either. Please, go look for yourself at all the laws and statutes that I have mentioned. I did so for a reason. I have not gotten to where I am by simply listening to others, but by working hard to see what the laws were and how they applied to me. I hope you, I implore you, to do the same.

If you would like to have more information, please reach out to Constable Christopher Lee, Constable Daryn Mingus, the Pennsylvania Fraternal Order of Constables, myself, or go to [www.stateconstable.us](http://www.stateconstable.us), or reach out to your local constable. There is also a great resource book, titled "Pennsylvania Constables: A Peace Officer's Manual, which is written by Constable James Canning and contains more in-depth information as to the powers and authority specific to that of Pennsylvania State Constables.

Thank you all for your time,

*Dieterich W. Piepho*

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