

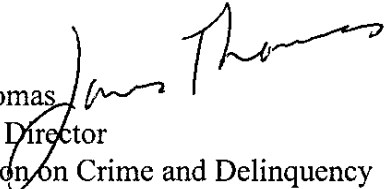


Commonwealth of Pennsylvania
**PENNSYLVANIA COMMISSION
ON CRIME AND DELINQUENCY**

DATE: March 4, 1999

SUBJECT: House Resolution 167 Task Force Reports

TO: Virgil F. Puskarich
Executive Director
Local Government Commission

FROM: James Thomas 
Executive Director
Commission on Crime and Delinquency

Mr. Thomas W. Corbett, Jr., Chairman of the Pennsylvania Commission on Crime and Delinquency (PCCD), has requested that I forward the enclosed reports to you. As requested, these reports, concern the statutory and case law references to the powers and duties of constables, and sheriffs and deputy sheriffs.

If you have any questions concerning these reports, please contact Steve Spangenberg, Manager of the PCCD's Civil and Criminal Training Division, at 787-1777, extension 3040.

Enclosures

CC: Thomas W. Corbett, Jr., Esquire

CONSTABLE DUTIES

As requested by the House Resolution 167 Task Force, this outline identifies the statutes, rules of procedure and case law relevant to the duties of constables. This outline is submitted as an addendum to the papers discussing the duties of constables previously submitted by the Pennsylvania Commission on Crime and Delinquency and the Pennsylvania State Constables' Association.

Constables Generally

- 13 P.S., Constables 1, et. seq.
- Reuben v. O'Brien, 299 Pa. Super. 372, 445 A.2d 801, 1982 Pa. Super. LEXIS 4200
- Rosenwald v. Barbieri, 501 Pa. 563, 462 A.2d 644 (1983)
- In RE Act 147 of 1990, 528 Pa. 460, 598 A.2d 985 (1991)

Arrest Powers - Generally

- 13 P.S., Constables § 45
- 16 P.S., County Code, § 1216 - Definition as Peace Officers
- In RE Act 147 of 1990, 528 Pa. 460, 598 A.2d 985 (1991)
- Commonwealth v. Taylor, 450 Pa. Super. 583, 677 A.2d 846 (1996)
- Commonwealth v. Roose, No. 902 Pittsburgh 1995, 1997 Pa. Super. LEXIS 246 (1997)

Arrest Powers - Specific References

- 32 P.S., Forests § 582 - Enforcement of Forest Laws
- 51 Pa.C.S., Military Affairs § 5204 - Apprehension of Military Offenders
- 35 P.S., Health § 521.19 - apprehension of escaped tuberculosis patient
- 50 P.S., Mental Health § 4419 & 4425 - apprehension of AWOL or escaped mental patients

Maintenance of Public Peace at Polling Place

25 P.S., Elections & Electoral Districts § 3047, 3511, 3521

Detention of Prisoners

61 P.S. § 798, Temporary detention of prisoners

Judicial Duties

42 Pa.C.S., Judiciary & Judicial Procedure § 2941, Definitions

Pennsylvania Rules of Civil Procedure Governing Actions and Proceedings Before District Justices (Pa.R.C.P.D.J.)

Civil Action - Pa.R.C.P.D.J. No. 301, et. seq.

Execution of Judgements - Pa.R.C.P.D.J. No. 401, et. seq.

Recovery of Possession of Real Property - Pa.R.C.P.D.J. No. 501, et. seq.

Minors and Incompetents as Parties - Pa.R.C.P.D.J. No. 801, et. seq.

Protection from Abuse Act - Pa.R.C.P.D.J. No. 1201, et. seq.

Payment provisions - 42 Pa.C.S., Judiciary & Judicial Procedure § 2950, - Fees, (f) Fees in civil cases

Serving complaints, summons or notice

Levying goods, schedule of property and set aside

Advertising public sale

Selling goods levied

Clerk at sale

Making return of not found

Executing order of possession

Ejectment

Making return of service, other than not found

Providing courtroom security, as ordered

Pennsylvania Rules of Criminal Procedure (Pa.R.Crim.P.)

Payment provisions - 42 Pa.C.S., Judiciary and Judicial Procedure § 2950, Fees, (g) Fees in criminal cases

Executing warrant or effectuating payment of fines and costs

Taking custody of defendant

Conveyance of defendant to/from court

Attendance at arraignment or hearing

Executing discharge

Executing commitment

Executing release

Making returns to the court

Holding defendants at the office of the district justice

Conveying defendants for fingerprinting

Fingerprinting or overseeing fingerprinting of defendant, at order of district justice

Providing courtroom security, as ordered

Serving subpoenas

Motor Vehicle Code

Commonwealth v. Roose, No. 902 Pittsburgh 1995, 1997 Pa. Super. LEXIS 246 (1997)
75 Pa.C.S., Motor Vehicle Code

§ 6309 - Impoundment of vehicle for nonpayment of fines, *upon direction of issuing authority*

§ 1540, Surrender of license - *upon delegation by the Department of Transportation*

§ 1376, Surrender of registration, plates and cards - *upon delegation by the Department of Transportation*

Other References

- 71 P.S., State Government § 180-9.6 - responsibilities of law enforcement agencies, Crime Victims' Bill of Rights
- 71 P.S., State Government § 1190.25 - duty to report crime statistics
- 71 P.S., State Government § 1402 - arrest under Department of Health warrant, re: quarantine
- 72 P.S., Taxation & Fiscal Affairs § 2643 - service of subpoenas & attachments issued by County Treasurers

SHERIFFS AND DEPUTY SHERIFFS

As requested by the House Resolution 167 Task Force, this outline identifies the statutes, rules of procedure and case law relevant to the duties of sheriffs and their deputies. This outline is submitted as an addendum to the papers, discussing the powers and duties of sheriffs and their deputies, previously submitted by the Office of Attorney General and the Sheriffs' Association of Pennsylvania.

Sheriffs & Deputy Sheriffs - Generally

- Pennsylvania Constitution Art.9, Section 4
- 16 P.S., County Code
- 53 P.S., Municipal & Quasi-Municipal Corporations

Law Enforcement & Arrest, Generally

- Pennsylvania Rules of Criminal Procedure
- 16 P.S., County Code
 - § 1216 - definition as peace officer
- 18 Pa.C.S., Crimes Code
 - § 103 - definition as police officer (2nd class county deputies)
 - § 501 - definition as peace officer
- 75 Pa.C.S., Motor Vehicle Code
 - § 4571 - definition of emergency vehicle
- Commonwealth v. Leet, 641 A.2d 244, 537 Pa. 89 (1994)
- Commonwealth v. Lyons - 555 A2nd 920 (PA Super. 1989)
- Commonwealth v. Miller - Cambria Co. Comm. Pleas No. 0114-90
- Shoop v. Dauphin County - U.S. Dist. Ct., Middle Dist., Civil # 3: CV-89-1498
- Veneri v. Allegheny County, 12 Pa. Cmwlth. 517, 524; 316 A.2d 120, 124 (1974)

Law Enforcement & Arrest - Specific References

- 18 Pa.C.S., Crimes Code
 - § 6504 - public nuisance abatement
- 35 P.S., Health
 - § 521.19 - apprehension of escaped tuberculosis patient
 - § 1276 - seizure of fireworks

- 42 Pa.C.S., Judiciary & Judicial Procedure
 - § 8390 - arrest for contempt, failure to pay fines
 - § 4134 - arrest for contempt, failure to pay fines
- 47 P.S., Liquor
 - § 6-603 - destruction of condemned liquor
- 50 P.S., Mental Health
 - § 4419 & 4425 - apprehension of AWOL or escaped mental patients
- 51 Pa.C.S., Military Affairs
 - § 5204 - apprehension of military offenders
- 71 P.S., State Government
 - § 1402 - arrest under Department of Health warrant, re: quarantine
- 77 P.S., Workmen's Compensation
 - § 1040.2 - violations of Workmen's Compensation law

Peace Officer - Maintenance of Public Peace

- 16 P.S., County Code
 - § 1216 - by definition as peace officer
- 25 P.S., Elections & Electoral Districts
 - § 3047, 3511 & 3521 - obstructions & disturbances at polling place
- 42 Pa.C.S., Judiciary & Judicial Procedure
 - § 21115 - sheriff as peace officer or police officer, conservation of peace, riots, mobs

Law Enforcement - Investigative & Administrative References

- 3 P.S., Agriculture
 - § 441.10 - investigation of disputes over branded animals
- 18 Pa.C.S., Crimes Code
 - § 6109 - licensing individuals for concealed carry of a firearm
 - § 6113 - licensing firearm dealers
- 35 P.S., Health
 - § 831.4 - sale of vehicles seized & forfeited for drug trafficking
- 71 P.S., State Government
 - § 180-9.6 - responsibilities of law enforcement agencies, Crime Victims' Bill of Rights
 - § 1190.25 - duty to report crime statistics
- 73 P.S., Trade & Commerce
 - § 1932 - licensing precious metal dealers

Extradition

- 42 Pa.C.S. § 9144

Motor Vehicle Code Enforcement

- Commonwealth v. Leet, 641 A.2nd 244, 537 Pa. 89 (1994)
- Kline v. Commonwealth of Pa. - 706 A.2nd 909 (Pa. Cmwlth. 1998)
Allocatur granted, case argued before the Supreme Court, decision pending.
- 75 Pa.C.S., Motor Vehicle Code
 - § 1376 - seizure of registration
 - § 1376 - seizure of licenses
 - § 3102 - direction of traffic
 - § 6104 - receipt of list of license suspensions
 - § 6309 & 6310 - impoundment of vehicles
 - § 7723 - relating to snowmobile events

Service of Process - Generally

- Pennsylvania Rules of Civil Procedure (Pa.R.C.P.)
- Pennsylvania Rules of Civil Procedure Governing Actions and Proceedings Before District Justices (Pa.R.C.P.D.J.)
 - Civil Actions - Pa.R.C.P.D.J. No. 301, et. seq.
 - Execution of Judgements - Pa.R.C.P.D.J. No. 401, et. seq.
 - Recovery of Possession of Real Property - Pa.R.C.P.D.J. No. 501, et. seq.
 - Protection From Abuse Act - Pa.R.C.P.D.J. No. 1201, et. seq.
- 42 Pa.C.S., Judiciary & Judicial Procedure
- 42 Pa.C.S. § 21101, et. seq. - Sheriff Fees

Service of Process - Specifically

- 20 Pa.C.S., Decedents, Estates, Fiduciaries
 - § 765 - service of citation
 - § 766 - proof of service
 - § 782 - writs
 - § 783 - writs of sequestration
 - § 784 - writs of execution on personal property
 - § 785 - writs of attachment
- 23 Pa.C.S., Domestic Relations
 - § 3502 - divorce actions attachment of property
 - § 3703 - enforcement of alimony arrearage
 - § 6106 - service in protection from abuse actions
 - § 6108 - seizure of weapons in Protection from abuse actions
- 21 P.S., Deeds & Mortgages
 - § 274 - sale of foreclosures
- 40 P.S., Insurance
 - § 469 - service of process
- 43 P.S., Labor
 - § 226, 227 - liens on & sale of timber

- 53 P.S., Municipal & Quasi-Municipal Corporations
Actions under Chapter 25, Municipal Claims & Tax Liens
- 58 P.S., Oil & Gas
§ 414 - service of summons
- 62 P.S., Poor Persons & Public Welfare
§ 1973 - service in actions for support of indigents
- 64 P.S., Public Lands
§ 33 - service of warrants
§ 467 - service
§ 474 - service on liens
- 68 P.S., Real & Personal Property, Chapter 8, Landlord & Tenant Act
§ 250.308 - appraisals
§ 250.309 - sales
§ 250.502 - recovery of possession
§ 250.503 - payment of rent
§ 250.504 - returns
- 71 P.S., State Government
§ Sheriff's jurisdiction to execute process on rivers and islands
- 72 P.S., Taxation & Fiscal Affairs
§ 1602 - service of writs/summons issued by Auditor General, State Treasurer, or Secretary of Revenue
§ 2614.13 - liens
§ 2643 - service of subpoenas & attachments issued by County Treasurers
§ 5860.601 - sale of property, notice, return
§ 5860.611 - service of rule
§ 8104-C - payment of tax from proceeds of sale

County Juvenile Justice

- 11 P.S., Children
§ 430 - 3rd class counties, Sheriff on Board of Managers of detention houses

County Corrections

- 61 P.S., Prisons
§ 407.3 - 2nd class counties, Sheriff as member of Prison Board
§ 408 - 3rd through 8th class counties, Sheriff as member of Prison Board
§ 419.1 - 6th through 8th class counties, Sheriff in charge of prison unless a Prison Board is established
§ 1052 - Sheriff as member of Intermediate Punishment Board