OFFICE OF THE DISTRICT ATTORNEY

Lebanon County

BRADFORD H. CHARLES
DISTRICT ATTORNEY

MICHAEL WAHMANN
CHIEF COUNTY DETECTIVE

MUNICIPAL BUILDING
400 S. 8th STREET
LEBANON, PENNSYLVANIA 17042
TELEPHONE - 717—274-2801

October 16, 1997

OCT 22 1997

The Honorable Peter J. Zug
House P.O. Box 202020
Main Capitol Building
Harrisburg, PA 17120-2020

Dear Pete:

Thank you for soliciting my input with respect to an obscenity statute which is pending before the House of Representatives.

As I understand it, the pending statute is designed to allow each county to define what is or is not obscenity. I agree with the Pennsylvania District Attorneys Association that such a statute could open a panacea of problems.

I have heard it said that "obscenity is in the eye of the beholder". I know that there are video stores in Lebanon County which rent x-rated videos. This obviously means that there is a market in Lebanon County for that type of material. On the other hand, I have had a resident of Lebanon County approach me and ask that the Statute of Lady Justice found in the lobby of the courthouse be declared obscene because the statute displays one bare breast.

I agree that child pornography laws should be strong and enforced vigorously. However, I am uncomfortable with the notion that one judge or one randomly-selected jury could set a community standard for obscenity for everyone else within our county. If, for example, a judge would determine that the magazine "Penthouse" violates community standards, would I be called upon to arrest everyone who is found in possession of a Penthouse magazine? What happens if the individual legally purchased Penthouse in a neighboring county where it was not determined to be in violation of community standards?

We in law enforcement have enough to do without also becoming "morality police". While children can and should be protected from obscene material, it would, in my judgment, be impractical to require police to investigate the type and nature of materials being possessed by adults.

Our office has and will continue to take a strong stance against materials which should not be disseminated to minors. However, for reasons set forth above, and for reasons set forth in the letter forwarded to you by the District Attorney's Association, I oppose the pending legislation to "localize" a definition of community standards.

Thank you for your attention regarding the above.

Very truly yours,

BRADFORD H. CHARLES
District Attorney
BHC/sld

cc: Senator David J. Brightbill
Representative Edward Krebs

OFFICE OF THE DISTRICT ATTORNEY

Lebanon County

BRADFORD H. CHARLES
DISTRICT ATTORNEY

MICHAEL WAHMANN
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December 9, 1997

RE: CONSTABLES

Senator David J. Brightbill
Municipal Building
400 South Eighth Street
Lebanon, PA 17042

The Honorable Peter J. Zug
1784 Woodridge Court
Lebanon, PA 17042

Representative Edward J. Krebs
445 West Penn Avenue
Cleona, PA 17042

Dear Chip, Pete and Ed:

I am writing to you about an issue which has become of increasing concern to me.

Since I have been District Attorney, numerous complaints regarding the conduct of constables have been forwarded to me. I have a file in my office which is probably several inches thick by now which is comprised solely of complaints from citizens about the conduct of constables. Several years ago, I brought this situation to the attention of Judge Eby. Together, we sponsored a training session for constables. We invited all licensed constables in Lebanon County to attend. Unfortunately, less than 50% of these individuals chose to attend. Since the date of that training session, complaints have not abated. If anything, they have become more numerous.

Unfortunately, members of the public perceive that constables are law enforcement officers. In reality, constables are not Act 120 qualified nor are they supervised by any Police Chief or by the District Attorney. Essentially, conduct of constables is unregulated. Unless a constable crosses the line and commits

criminal conduct, there is nothing I or anyone else can do to restrain their behavior. Not only is this a concern to members of the public, but it also creates a poor image for the entire legitimate law enforcement community.

Please allow me to relate several situations which have been brought to my attention. In one, a constable knocked on the door of a woman who owed fines for parking violations. This woman was naked and in the shower. He knocked on the door and announced his position. He was told by children that their mother was in the bathroom. At this point, he entered the house without permission of the woman. He proceeded to her bathroom and saw her without clothing. She asked him to leave while she got dressed and he refused. She asked him to turn his back and he declined to do so. Thereafter, he stated that he would be arresting her and taking her to jail unless she paid the parking fines and indicated that her children would be taken from her by Children & Youth Services if she declined to pay the past due fines.

This constable had a valid warrant executed by a District Justice. From a technical standpoint, he complied with Pennsylvania law regarding service of warrants. In reality, I believe his conduct was unconscionable. Unfortunately, he did not commit a crime and I therefore have no authority to take any action regarding this incident.

In another situation, a constable was hired to accompany a woman in order to pick up furniture at a residence of her boyfriend in which she had previously resided. Apparently, the constable was a friend of the boyfriend's family and "tipped off" the boyfriend. He was able to remove and hide some of this woman's belongings. While we may be able to pursue a complaint of theft against the boyfriend, once again there is nothing we can do about the constable.

My file is replete of other complaints against constables in which constables have acted in an intimidating/threatening manner. In many instances, we have initiated criminal investigations and have concluded that the constable's conduct was barely outside the confines of the Pennsylvania Crimes Code. Quite frankly, had one of our County Detectives acted as constables have acted, they would not remain employed very long. I believe the public has a right to expect and demand that law enforcement officials be held to a standard higher than that of "barely avoiding criminality".

Unfortunately, constables do not seem to be held to any kind of standard. Even worse, the public perceives that constables are part of the law enforcement community and their unregulated conduct can and has undermined public confidence in law enforcement officers.

I have spoken with other District Attorneys at meetings. While we may have an inordinate number of complaints within Lebanon County, problems with constables are not isolated to Lebanon County.

I believe that the Pennsylvania Legislature should look into enacting a statute to provide regulation and/or rules of conduct for constables. I also believe that constables should not be afforded with the powers of arrest. In the event you would like me to provide additional documentation regarding the complaints I have received and our efforts to educate constables in Lebanon County, I would be happy to do so.

Thank you for your consideration of this disturbing issue. If you have questions, please call.

Very truly yours,

BRADFORD H. CHARLES
District Attorney
BHC/sld

cc: County Commissioners
President Judge Robert J. Eby
Court Administrator Ed Rutter

OFFICE OF THE DISTRICT ATTORNEY

Lebanon County

BRADFORD H. CHARLES
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December 11, 1997

RE: CONSTABLES

Senator David J. Brightbill
Municipal Building
400 South Eighth Street
Lebanon, PA 17042

The Honorable Peter J. Zug
1784 Woodridge Court
Lebanon, PA 17042

Representative Edward J. Krebs
445 West Penn Avenue
Cleona, PA 17042

Dear Chip, Pete and Ed:

Since dictation of my letter to you dated December 9, 1997, I had the opportunity to speak with Pete. Pete graciously provided me with a copy of an obscure law primarily relating to County Treasurers. This law does contain a provision which allows the "court of quarter sessions" to remove a constable or require him to obtain a surety when misconduct is established. This law allows any "citizen" to make a complaint.

I do not believe that this law is sufficient to prevent the type of abuses we have seen with constables. Please let me explain.

First, there is no longer a "court of quarter sessions". I do not know if the current Court of Common Pleas would have the same authority as the Legislature has granted to the "court of quarter sessions".

Second, and more important, private citizens do not have the time, energy or resources to pursue legal action against a constable. In order to pursue removal of a constable, a private citizen would have to hire counsel to file a petition and then represent him in court. While citizens do not hesitate to write letters of complaint, very few have the money and energy to pursue this matter by hiring private counsel.

Please allow me to respectfully suggest that one way to regulate constables would be to allow the District Attorney's office to investigate complaints and submit petitions to the court for removal of a constable. Currently, my office has no authority to investigate complaints against constables. I question whether it would be legal for me to task a County Detective to look into the complaints I have received. Certainly, it would be unlawful for me to assign an Assistant District Attorney to handle a request to remove a constable from office. My office has simply not been authorized to perform these tasks by the Legislature.

It remains my belief that constables are largely unregulated and the existing statute provided to me by Pete is inadequate to solve this problem. Therefore, I respectfully renew my request for legislative assistance in the process of regulating constables. It is my belief that if the District Attorney is provided with authority to investigate and act upon complaints, that in itself will provide a potent deterrent for the type of "cowboy tactics" which we sometimes see from constables.

Thank you for your attention regarding the above.

Very truly yours,

BRADFORD H. CHARLES
District Attorney
BHC/sld

P.S. As I reflect upon the above letter and my previous letter, I worry that I give the impression that all constables are acting inappropriately. That is not my intent. I recognize that there are good people who serve honorably as constables. Unfortunately, it is the "bad apples" which create most of the problem and attention.

cc: President Judge Robert Eby
Ed Rutter

OFFICE OF THE DISTRICT ATTORNEY

Lebanon County

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MICHAEL WAHMANN
CHIEF COUNTY DETECTIVE

December 16, 1997

DEC 22 1997

The Honorable Peter J. Zug
House P.O. Box 202020
Main Capitol Building
Harrisburg, PA 17120-2020

Dear Pete:

I have received your proposed amendment to the Pennsylvania Constable Act. I find the amendment to be appropriate and would support passage of the same.

Thank you for your prompt attention to this matter. If I can be of any assistance or if you have any additional questions, please do not hesitate to call.

Very truly yours,

BH

BRADFORD H. CHARLES
District Attorney
BHC/sld

Harrisburg
put on Leon's desk

OFFICE OF THE DISTRICT ATTORNEY

Lebanon County

BRADFORD H. CHARLES
DISTRICT ATTORNEY

MICHAEL WAHMANN
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400 S. 8th STREET
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TELEPHONE - 717—274-2801

January 5, 1998

The Honorable David J. Brightbill
Municipal Building
400 South Eighth Street
Lebanon, PA 17042

Dear Chip:

I have received a letter of December 22, 1997 which Kim Shawkey sent to me. This letter attached legislation which I understand is pending regarding constables. By copy of this letter, I am also providing Representative Krebs and Representative Zug with a copy of the legislation your office provided.

I believe that either the legislation you proposed or the legislation which Pete Zug proposed would lessen my concerns over constables. Either would be an improvement upon the current situation and I would support initiatives to adopt either.

For whatever it is worth, I understand that the Pennsylvania District Attorney's Association has developed an interest in this issue also. I will be working with a committee formed by the PDAA to reform existing law with respect to constables.

Thank you for your prompt response to my inquiry. As this legislation moves forward, I would be happy to provide more detailed insight with respect to misconduct of constables which has occurred in Lebanon County.

If you have any questions pertaining to the above, please let me know.

Very truly yours,

BHC

BRADFORD H. CHARLES
District Attorney
BHC/sld

cc: The Honorable Peter J. Zug
Representative Krebs

PETER J. ZUG, MEMBER

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ELIZABETHVILLE, PA 17023
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House of Representatives
COMMONWEALTH OF PENNSYLVANIA
HARRISBURG

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MAJORITY POLICY

TRANSPORTATION ADVISORY COMMITTEE

TO: All Members of the House of Representatives

FROM: Representative Peter J. Zug PJZ

DATE: January 7, 1998

SUBJECT: Proposed Legislation

In the near future, I plan to introduce legislation amending Title 42 of the PA Consolidated Statutes providing for the removal of a constable from office.

If you are interested in co-sponsoring this legislation, please contact Jodi Marsico at 7-2686 or via Groupwise.

From: James Mann
To: Jodi Marsico
Date: Fri, Jan 9, 1998 2:52 PM
Subject: Rep. Zug's amendment

I've looked over the letter from Brad Charles, DA of Lebanon County. There are a couple things that the Representative might want to know before pursuing his amendment on the House Floor:

1. The DA questions whether the current Common Pleas Courts in the variuos judicial districts would have the same authority as the Court of Quarter Sessions. A review of Article V of the PA Constitution reveals the following:

"COURTS OTHER THAN IN THE CITY OF PHILADELPHIA AND ALLEGHENY COUNTY
* * *
§ 4. The courts of common pleas Until otherwise provided by law, the several courts of common pleas shall exercise the jurisdiction now vested in the present courts of common pleas. The courts of oyer and terminer and general jail delivery, quarter sessions of the peace, and orphans' courts are abolished and the several courts of common pleas shall also exercise the jurisdiction of these courts. . . "

2. I do not believe that the procedure for removal of a constable under Section 14 of the Act of 1841 (P.L. 400, No. 141) necessarily requires a private person to pursue an action against a constable and hire legal counsel (spending money, time, etc). The court of common pleas has the full power to inquire into the official conduct of constable of that county and to issue a decree to remove such constables. Also, the "surety of any constable" (whatever that means now) and any citizen in the county may already petition the court for an inquiry into the official conduct of a constable.

While a District Attorney may not, under current law, investigate a constable for removal from office, the DA may order the county investigator to inquire into the criminal conduct of constables and deputy constables (this may be a distinction without a difference). The County Code as it relates to county detectives in all classes of counties (1st through 8th Class) in the Commonwealth, provides the following:

"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 office of magistrates, 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."

CC: Brian Preski

From: James Mann
To: Jodi Marsico
Date: Wed, Jan 14, 1998 4:03 PM
Subject: Receipt of information

I got the info from Rep. Zug this afternoon. His amendment to Title 42 basically treats the investigation of a constable like a private criminal complaint - residents go to the DA with their complaint, the DA investigates, the court removes the constable. Short and sweet. Nice.

Two things:

1. The legislation doesn't leave any discretion to the court - the constable is either in or out. While this isn't necessarily a bad thing, some will surely complain.

2. The bill draft and the amendment to HB 1178 are two very different pieces of legislation. Of the two, Rep. Zug's draft bill is more appealing. The amendment is less complete.

Feb 9th 6-
6:45

From: James Mann
To: Pzug@HRCSDOMAIN.MEMBERPO
Date: Thu, Jan 15, 1998 11:43 AM
Subject: Re: whcih is better, the bill or the amendment

My opinion - with a little clean-up, the bill.

The problems:

The draft bill language doesn't maintain the ability for residents or sureties to petittion the court for removal of the constable. Was this done purposely? If so, why? Also, taking away the court's discretion to remedy constable malfeasance through means other than removal (fine, suspension, etc.) might be a problem.

Still, the bill draft does more than merely clean-up 157 year old language.

Since HB 1178 probably isn't a mover until the other ump-teen amendments are withdrawn (also my opinion), you should have plenty of time to make a decision. Has Brad talked with the DA's Association on how they feel about District Attorneys becoming the "go-to " for constable investigations? The PDAA's support goes a long way.

CC: Brian Preski

OFFICE OF THE DISTRICT ATTORNEY

Lebanon County

BRADFORD H. CHARLES
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January 27, 1998

RE: CONSTABLES

Senator David J. Brightbill
Municipal Building
400 South Eighth Street
Lebanon, PA 17042

The Honorable Peter J. Zug
1784 Woodridge Court
Lebanon, PA 17042

Representative Edward J. Krebs
445 West Penn Avenue
Cleona, PA 17042

Dear Chip, Pete and Ed:

Mike Marino, President of the Pennsylvania District Attorneys Association, has appointed me chairman of a committee to look into the conduct of constables in Pennsylvania.

You already know my feelings regarding problems caused by constables in Lebanon County. I appreciate your response to those concerns. While I understand that some of my concerns are shared by other District Attorneys throughout the Commonwealth, I by no means can represent that my views represent a consensus among the District Attorneys of this Commonwealth. Therefore, please consider my prior letters to be an expression of my opinion only.

On behalf of the Association, I will be gathering together information from across the state regarding constables. It is my intent to attempt to conduct a balanced inquiry. Following an information-gathering stage, I will be proposing a resolution to the District Attorney's Association with respect to the legislative initiatives you have communicated to me. While I have and continue to support these legislative initiatives, that support is based on my personal opinion, and is not reflective of any official position by the Pennsylvania District Attorney's Association.

I wanted to make my involvement and participation regarding this issue clear to each of you. It is my intent to attempt to work with each of you regarding this issue if, as, and where appropriate. As always, I would welcome any suggestions or input you might have regarding the legislative process.

Thank you for your attention regarding the above.

Very truly yours,

BH

BRADFORD H. CHARLES
District Attorney
BHC/sld

get leg drafted

House of Representatives
COMMONWEALTH OF PENNSYLVANIA
HARRISBURG

MEMORANDUM

TO: Honorable Peter J. Zug

FROM: James G. Mann, Legislative Research Analyst
House Judiciary Committee (R)

DATE: July 30, 1998

SUBJECT: Report on Constables by Lebanon County District Attorney Brad Charles

Brian Preski, Chief Counsel to the Judiciary Committee (R), asked me to review your DA's inquiry and provide you with some recommendations. Specifically, Brad Charles raises several concerns relating to the disciplinary procedure for constables and proposed legislation. Most of my comments relating to Mr. Charles' concerns will be a restatement of my memo to you, dated January 9, 1998. However, I will address the five concerns outlined he has outlined in Part III of his report.

* * *

(1) The law provides that the "Court of Quarter Sessions" shall have the authority to hear these issues. In most counties, the Court of Quarter Sessions has been eliminated.

Generally, the Court of Quarter Sessions has been abolished. However, the authority once held by the Court of Quarter Session is now held by the various Courts of Common Pleas. A Schedule to the Judiciary Article of the Pennsylvania Constitution provided that "[t]he courts of oyer and terminer and general jail delivery, quarter sessions of the peace, and orphans' courts are abolished and the several courts of common pleas shall also exercise the jurisdiction of these courts." Pa. Const. Sched. Art. 5, § 4. This section was superseded and suspended absolutely by section 26(a) of Act 1976, July 9, P.L. 586, No. 142, known as "The Judiciary Act of 1976."

The effect of the Judiciary Act on the jurisdiction of the Court of Common Pleas was addressed by the Pennsylvania Supreme Court in 1978. The Court determined that"[o]ne of purposes of reconstructing Court of Common Pleas to have it possess jurisdiction of a former Courts of Common Pleas, ***Courts of Quarter Sessions***, Courts of Oyer and Terminer, Orphans' Courts, and Juvenile Courts, was to simplify procedure and remove archaisms from judicial system." (emphasis added) Commonwealth v. Wadzinski, 401 A.2d 1129, 485 Pa. 247 (Sup.1978), on remand 403 A.2d 91, 266 Pa.Super. 56. In simplest terms, where ever the law

references the term "Court of Quarter Sessions" it generally means the "Court of Common Pleas."

(2) The law gives a "citizen" the right to file a complaint. Most citizens do not have the financial wherewithal or means to investigate and prosecute a cause of action to remove a constable. In today's litigious climate, it is unlikely that a citizen would risk seeking removal of a constable given the possibility of a counter-suit by the constable against the citizen.

The law does not require a private citizen to investigate and prosecute a cause of action to remove a constable. The relevant portion of the law provides the following:

> The ***courts of quarter sessions of each county shall also have full power***, on petition of any citizen or citizens of said county setting forth the complaint, and verified by affidavit, ***to inquire into the official conduct of any constable*** of said county in cases other than charges against such constable of the existence in him of habits of intemperance or neglect of duty; and, in all cases where said court shall be satisfied that because of any act or acts of malfeasance or misfeasance in office committed by him, including any act or acts of oppression of any suitor or suitors, or witness or witnesses, such constable is unfit or incompetent properly to discharge his official duties, it shall be lawful for said courts, respectively, ***to decree the removal of such constable from office, and to appoint a suitable person to fill the vacancy***. . . . (emphasis added)
>
> 1841, May 27, P.L. 400, § 14; 1929, May 7, P.L. 1581, § 1.

To initiate an investigation of a constable, a citizen need only present a petition the court, verified by affidavit. The investigation and removal of the constable is left to the court and the county.

While the district attorney may not investigate a constable **for removal** from office, the DA may order the county investigator to inquire into the conduct of constables and deputy constables (this may be a distinction without a difference). The County Code as it relates to county detectives in all classes of counties (1st through 8th Class) in the Commonwealth, provides the following:

> 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 office of magistrates, ***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. (emphasis added)
>
> 1953, July 28, P.L. 723, art. XIV, § 1440; and 1955, Aug. 9, P.L. 323, § 1440.

(3) The terms "malfeasance or misfeasance" are not defined.

While it is true that the terms do not have any statutorily defined meaning, the meanings of these words are regularly used and commonly understood in courts of law. Malfeasance means "a wrongful act which the actor has no legal right to do, or any wrongful conduct which affects, interrupts, or interferes with performance of official duty. . ." Black's Law Dictionary 956 (6th Ed. 1990). Misfeasance is distinguished from malfeasance in that misfeasance is "the improper doing of an act which a person might lawfully do." Id. at 1000.

It may be that Mr. Charles would like to lessen the degree of misfeasance or malfeasance necessary for the removal or sanctioning of constables. If this is the case, a statutory delineation of acts sufficient to warrant removal might be necessary.

(4) No public or appointed official is given the authority to supervise or review the conduct of constables.

As stated previously, the law is clear that Courts of Common Pleas stand as the office with authority to review the conduct of constables for removal. District Attorney's, by and through their county detectives, have the authority to investigate the actions of constables and deputy constables. However, Mr. Charles is correct in stating that there is no statutory duty imposed on any public official to oversee the day-to-day operation of a constable. The Pennsylvania Supreme Court determined that constables are "independent contractors" and belong to the executive rather than judicial branch of government. Some possibilities for supervision of these "independent contractors" might be the county sheriff's office or the district attorney's office.

(5) The law requires that the court appoint a suitable person to fill any vacancy created by removal of a constable provided that the appointed individual "shall have a freehold estate with at least $1,000.00 beyond encumberance. . ."

It seems that the requirement of an appointee to hold a "freehold estate" is one of antiquity which no longer holds any real meaning. To require an individual to be a land owner before he/she could hold office might be offensive to the Constitution using contemporary standards. Notwithstanding, Mr. Charles left a relevant portion of the law out of his quote. That is; the appointee shall have a freehold estate, "***or give security as in other cases of constables***, to continue in office until the next succeeding election for constable and until a successor be duly qualified." (emphasis added) 1841, May 27, P.L. 400, § 14; 1929, May 7, P.L. 1581, § 1.

The current security requirements for constables to perform judicial duties can be found in the Judiciary and Judicial Procedure Code. The 1994 law provides that "no constable or deputy constable shall perform any judicial duties nor demand or receive any fee, surcharge or mileage provided by this subchapter unless he has been certified [under the Constable Education and Training Law]" and possesses the required liability insurance. See 42 Pa.C.S. § 2942.

CONCLUSION:

The laws relating to constables and deputy constables are some of the oldest laws of the Commonwealth still in force today. There is ample authority for investigation of a constable's actions and removal of constables when necessary. However, some of the references in these statutes are very dated and no longer have any real meaning (i.e. freehold estates, sureties, and Court of Quarter Sessions). It may be appropriate to review existing laws and update them to better reflect the constable's role as a modern-day peace officer/process server. Finally, these law should be consolidated in an appropriate title.

* * *

I hope the information provided adequately addresses the district attorney's concerns. If you have any questions relating to this memorandum, please do not hesitate to contact me.

JGM/cmw.

cc: Brian J. Preski, Chief Counsel
House Judiciary Committee (R)

PETER J. ZUG, MEMBER

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House of Representatives
COMMONWEALTH OF PENNSYLVANIA
HARRISBURG

September 14, 1998

COMMITTEES

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SUBCOMMITTEE CHAIRMAN ON HOUSING
VETERANS AFFAIRS AND EMERGENCY PREPAREDNESS
MAJORITY POLICY

TRANSPORTATION ADVISORY COMMITTEE

TO: All Members of the House of Representatives

FROM: Representative Peter J. Zug

SUBJECT: Removal of Constables

In the near future, I will introduce legislation to repeal an antiquated law relating to the removal of constables and replace those laws with clear guidelines to deal with constables who commit certain acts. This legislation comes at the request of the Lebanon County District Attorney and is supported by the Pennsylvania District Attorneys Association.

The existing law relating to the removal of constables was enacted in 1841 and does not specifically delineate what types of conduct would cause a constable to be removed from office. Rather, the law provides for "misfeasance" and "malfeasance" and leaves the type of conduct which qualifies for the courts to determine. Also, this old law makes references to the "court of quarter sessions" and "sureties of constables." Neither of these terms have any real meaning under our modern court systems and constable qualifications.

My legislation amends Title 42 (Judiciary and Judicial Procedure) of the Consolidated Statutes by adding a section which specifically provides for the removal of constables from office. This new section provides five specific instances in which a constable can be removed; allows the county district attorney to investigate an allegation of wrongdoing based either a complaint by a citizen or on his/her own initiative; allows the district attorney to petition the court for removal of the constable; provides that the court shall remove a constable based on a finding of substantial evidence to support the allegations of impropriety; and allows the court to appoint a qualified person to replace the constable for the constable's unexpired term of office. Simply, this new section is a comprehensive update of an antiquated and ineffective law.

According to the Lebanon County District Attorney, there are far too many examples of inappropriate behavior by constables which go without sanction. Complaints like false swearing, brandishing a firearm, engaging in high-speed chases, improper vehicle stops and searches, collusion with parties to a civil action, and defendant "shake-downs" are among the dozens of complaints filed annually against constables. My legislation will shed "new light" on the constable removal process and hopefully remove the relatively few members of the constabulary that tarnish the office's image and give constables an undeserved reputation.

If you would like to cosponsor this legislation, please contact Jodi Marsico in my Harrisburg office at 7-2686 or via Groupwise at JMARSICO.

Office of the District Attorney

County of Lebanon

400 South Eighth Street
Room 11
Lebanon, PA 17042-6794

Telephone: 717-274-2801
Fax: 717-272-0839

Bradford H. Charles
District Attorney

Paul D. Zechman
Chief County Detective

September 14, 1998

The Honorable Peter J. Zug
112 West Main Avenue
Myerstown, PA 17067

Dear Pete:

I have received a copy of your proposed legislation regarding constables. The legislation looks fine to me. We appreciate your help in introducing this legislation. Representatives of the District Attorney's Association should be contacting you in order to express support for legislation of this nature.

Once again, I thank you for your help and cooperation regarding this important issue.

Very truly yours,

Bradford H. Charles

BRADFORD H. CHARLES /sld
District Attorney
BHC/sld

Dictated but not read.

PETER J. ZUG, MEMBER

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House of Representatives
COMMONWEALTH OF PENNSYLVANIA
HARRISBURG

December 15, 1998

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TO: All Members of the House of Representatives

FROM: Representative Peter J. Zug

SUBJECT: Removal of Constables

I plan to reintroduce legislation to repeal an antiquated law relating to the removal of constables and replace those laws with clear guidelines to deal with constables who commit certain acts. This legislation comes at the request of the Lebanon County District Attorney and is supported by the Pennsylvania District Attorneys Association.

The existing law relating to the removal of constables was enacted in 1841 and does not specifically delineate what types of conduct would cause a constable to be removed from office. Rather, the law provides for "misfeasance" and "malfeasance" and leaves the type of conduct which qualifies for the courts to determine. Also, this old law makes references to the "court of quarter sessions" and "sureties of constables." Neither of these terms have any real meaning under our modern court systems and constable qualifications.

My legislation amends Title 42 (Judiciary and Judicial Procedure) of the Consolidated Statutes by adding a section which specifically provides for the removal of constables from office. This new section provides five specific instances in which a constable can be removed; allows the county district attorney to investigate an allegation of wrongdoing based either a complaint by a citizen or on his/her own initiative; allows the district attorney to petition the court for removal of the constable; provides that the court shall remove a constable based on a finding of substantial evidence to support the allegations of impropriety; and allows the court to appoint a qualified person to replace the constable for the constable's unexpired term of office. Simply, this new section is a comprehensive update of an antiquated and ineffective law.

According to the Lebanon County District Attorney, there are far too many examples of inappropriate behavior by constables which go without sanction. Complaints like false swearing, brandishing a firearm, engaging in high-speed chases, improper vehicle stops and searches, collusion with parties to a civil action, and defendant "shake-downs" are among the dozens of complaints filed annually against constables. My legislation will shed "new light" on the constable removal process and hopefully remove the relatively few members of the constabulary that tarnish the office's image and give constables an undeserved reputation.

If you would like to cosponsor this legislation, please contact Jodi Marsico in my Harrisburg office at 7-2686 or via Groupwise at JMARSICO.