

CONSTABLE MANUAL

26TH JUDICIAL DISTRICT
COLUMBIA/MONTOUR COUNTY,
PENNSYLVANIA



September 23, 2016

APPROVED BY THE COURT:



P.J.
President Judge Thomas A. James

TABLE OF CONTENTS

- I. General Provisions
- II. Powers and Duties
- III. Warrant Procedures
- IV. Compensation
- V. Central Warrant Repository
- VI. Constable Code of Conduct

Appendix Exhibit A – Acknowledgment

Exhibit B – Receipt of Purge Amount

I. GENERAL PROVISIONS

- A. **Definitions** - Subject to additional definitions contained in subsequent sections of this manual, the following words and phrases shall have, unless the context indicates otherwise, the meanings given to them in this section.

Clerk of Courts - The official, and that official's office, in the 26th Judicial District who, pursuant to 42 Pa. C.S.A. § 2756 and 2757, has a responsibility and function to maintain the official criminal case file and list of docket entries, and to perform such other duties as required by rule or law.

Constable - All elected, court appointed, and/or deputy constables duly elected or appointed pursuant to statutory authority. As elected or appointed officials, constables are independent contractors and are not employees of the Commonwealth, the judiciary, or the municipality in which they serve.

Constable's Education and Training Board (C.E.T.B.) - The Constable's Education and Training Board established and created pursuant to 44 Pa. C.S.A. § 7143 vested responsibility for developing basic training and firearms education for constables certified to perform judicial duties.

Chief Clerk- The duly appointed Chief Clerks for the Counties of Columbia and Montour as empowered with the rights, duties, and responsibilities under the County Code, 16 P.S. § 101 et seq.

County – Counties of Columbia and Montour.

Court - The Court of Common Pleas for the 26th Judicial District.

Court Administrator - The District Court Administrator for the 26th Judicial District as designated by the Pennsylvania Supreme Court and the Administrative Offices of the Pennsylvania Courts.

Court Official - The Judges of the Court of Common Pleas for the 26th Judicial District, the Magisterial District Judges for the 26th Judicial District, the Columbia/Montour County District Court Administrator, the Department Directors for the Columbia/Montour County Department of Probation Services and the Columbia/Montour County Domestic Relations Office, and all employees in the respective offices.

Judicial Duties - Services and duties performed by a constable for the payment of fees as authorized by 44 Pa. C.S.A. § 7161 including all

services specified therein regardless of whether a fee is actually sought by the constable or paid by the County.

Magisterial District Judge - Public official having the power and authority of a magisterial district judge whose jurisdiction falls within the 26th Judicial District.

Prothonotary – The duly elected Prothonotaries for the 26th Judicial District as empowered with the rights, duties, and responsibilities under 42 Pa. C.S.A. § 2736 and 2737 who has a responsibility to maintain official court records and to perform such other duties as required by rule or law.

Sheriff – The duly elected two Sheriffs for the Counties of Columbia and Montour as empowered with the rights, duties, and responsibilities under the County Code, 16 P.S. § 101 et seq., including all deputies appointed in compliance with the County Code.

II. POWERS AND DUTIES

A. **Requirements of Constables Performing Judicial Duties in 26th Judicial District** - Constables performing judicial duties within the 26th Judicial District must:

1. Be certified by C.E.T.B.
2. Post a bond with the Clerk of Courts Office in a sum of \$2,500 with the condition for just and faithful discharge by the constable of the duties of the office. The bond shall be held in trust for the use and benefit of persons who may sustain injury by reason of a constable's neglect of duty. Proof of the filing of a bond must be provided to the Court Administrator's Office by said Constable.
3. Maintain a policy of professional liability insurance providing coverage for the performance of judicial duties with a minimum coverage of \$250,000 per incident and a minimum aggregate of \$500,000 per year. Proof of insurance coverage must be provided to the Clerk of Courts Office and the Court Administrator's Office annually or as directed by either office.
4. Maintain a valid and current Pennsylvania driver's license and required financial responsibility (automobile insurance) on any vehicle used for the performance of judicial duties. Proof of licensing and insurance must be provided to the Court Administrator's Office as required by that office. Absence of a driver's license does not preclude a constable who is otherwise approved by the Court to perform judicial duties from working with a constable pursuant to 44 Pa. C.S.A. § 7161(c) provided the unlicensed or uninsured constable does not operate a motor vehicle. However, unless accompanied by another constable who maintains a valid and current Pennsylvania driver's license and required financial responsibility, a constable who does not possess a valid driver's license or required financial responsibility shall not perform judicial duties.
5. Maintain current address information with the Clerk of Courts and the Court Administrator's Office. Current contact information shall include constable's current address, telephone number, and cell phone number. Contact information shall also include information as to any other communication equipment utilized by the constable to perform judicial duties (i.e. pager, fax machine).
6. If carrying a firearm in the performance of duties, the constable shall provide the Clerk of Courts and the Court Administrator's

Office with proof of certification or qualification to carry or use firearms as provided by 44 Pa. C.S.A. § 7148.

7. Complete and provide the Chief Clerk of the respective county, all vendor authorization documents, including the production of a tax identification number as required by local, state, or federal law or policies and procedures of the County.
8. Provide the Court Administrator's Office with an executed acknowledgment evidencing the constable has received a copy of the Pennsylvania Unified Judicial System Constable Policies, Procedures, and Standards of Conduct and understands the provisions and terms set forth therein. The acknowledgment shall be in the form attached hereto as "Exhibit A."
9. Provide the Court Administrator's Office with an executed acknowledgment evidencing the constable has received a copy of the Constable Manual for the 26th Judicial District and understands the provisions and terms set forth in the manual governing the performance of judicial duties. The acknowledgment shall be in the form attached hereto as "Exhibit A."

B. Authorization to Perform Judicial Duties - No Magisterial District Judge, nor any other Court Official, shall request or otherwise authorize a constable to perform judicial duties, nor shall the Chief Clerk authorize payment of fees for a constable performing judicial duties, unless the constable has been designated by the Court Administrator's Office as a constable authorized to perform judicial duties.

1. The Court Administrator shall maintain a list of all constables who are authorized to perform judicial duties within the 26th Judicial District. The Court Administrator's Office shall publish the list with all Magisterial District Judges in the 26th Judicial District; any other Court office utilizing constable services in the performance of judicial duties; the County Clerk and the Clerk of Courts Office on a regular basis. The list shall be updated and published at least annually by Court Administration. In the event the privilege of a constable to perform judicial duties is revoked by the Court, the Court Administrator's Office shall promptly notify the identified offices of the same.
2. The Court Administrator's Office shall develop policy and procedure to effectuate and ensure a constable's compliance with the requirements set forth in Section A above.

- C. Removal of Authorization to Perform Judicial Duties** - Although a constable may only be removed or disciplined for acts of malfeasance or misfeasance upon petition of the District Attorney or an individual citizen (see 13 P.S. § 31), a constable's authorization to perform judicial duties pursuant to Section B above may be revoked at any time pursuant to the authority of the President Judge.
1. A constable's authority to perform judicial duties shall be revoked in the following circumstances:
 - a. a constable permits his/her compliance with requirements of Section A above to lapse;
 - b. the constable commits a breach of the duties or requirements of this manual including, but not limited to, the Constable Code of Conduct as set forth in Section VI herein;
 - c. the constable commits any violation of the law while in the performance of judicial duties or is otherwise convicted of criminal conduct which places the integrity or honesty of the constable at issue;
 - d. the constable commits any act which jeopardizes public trust in or brings disrespect to the Court.
 2. Court Officials who know, or have reason to believe, that a constable has committed a violation of the Code of Conduct or the provisions of the Constable Manual shall promptly inform the Court Administrator's Office of the same.
 3. All complaints of constable misconduct, including complaints related to the failure to comply with the Constable Manual, including the Constable Code of Conduct, shall be promptly investigated by the Court Administrator. The results of the investigation shall be provided to the President Judge for further action, if any.
- D. Minimum Requirements** - Compliance with the provisions of this manual does not guarantee a constable the right to perform judicial duties for a Magisterial District Judge or Court Official. Rather, the provisions of this section set forth the minimum requirements which must be complied with before a constable may be utilized by a Magisterial District Judge or Court Official to perform judicial duties. Magisterial District Judges and other Court Officials retain the right to assign constable work within their reasonable discretion provided the utilized constable is otherwise in compliance with this section.

III. WARRANT PROCEDURES

- A. **Service, Courts, Generally** – The Courts shall have the discretion to distribute warrants and other legal process to a constable of their choice provided a constable is otherwise authorized by the Court Administrator's Office to perform judicial duties.
- B. **Service, Sheriffs** – The Sheriffs of Columbia and Montour Counties shall have the discretion to distribute warrants and other legal process to a constable of their choice provided a constable is otherwise authorized by the Court Administrator's Office to perform judicial duties.
- C. **Summary Warrants** - The following procedures shall apply to the issuance and service of summary warrants.
 - 1. A Magisterial District Judge possesses the exclusive right, subject to the authority of the President Judge, to distribute warrants issued by them to a constable of their choice provided a constable is otherwise authorized by the Court Administrator's Office to perform judicial duties. Magisterial District Judges shall issue warrants where appropriate pursuant to the Pennsylvania Rules of Criminal Procedure and prevailing law.
 - 2. Upon issuance of a warrant, the Magisterial District Judge may assign the warrant to a constable authorized to perform judicial duties by the Court Administrator's Office. A copy of the warrant shall be retained by the District Judge and shall contain a designation as to the date of issuance and the constable to whom it was assigned. Unless the warrant is unassigned, no authorized person other than the assigned constable shall serve a warrant within 30 days of the initial issuance of the warrant by the Magisterial District Court except as follows:
 - a. The subject of the warrant is in the custody of the Sheriff's Office as a result of contact between the subject and the Sheriff's Office unrelated to the warrant in which case a duplicate warrant may be issued to the Sheriff's office. In the event the Sheriff's office serves such a warrant, the Magisterial District Judge, upon notice of the same, shall promptly alert the assigned constable that the warrant has been served; or

- b. The subject of the warrant is in the custody of a constable who has exercised custody pursuant to another warrant issued and served in compliance with this manual in which case a duplicate warrant may be issued to the constable who has custody of the subject; or
 - c. The subject of the warrant is in the custody of a municipal or state police agency for any reason and the municipal or state police agency requests the assistance of a constable in service and execution of the warrant. If the warrant is assigned by the Magisterial District Judge to a specific constable, the Magisterial District Judge shall attempt to contact that constable for service of the warrant. The constable shall return the certified copy of the warrant to the Magisterial District Court evidencing service of the warrant.
- 3. During operating hours of the Magisterial District Court, if a Constable, Sheriff, Municipal or State Police Officer has reasonable belief they can serve a summary warrant that the requestor is authorized to serve within 12 hours, that person shall contact the issuing Magisterial District Court to obtain a copy of the warrant.
- 4. All assigned, unserved summary warrants shall be returned to the issuing authority after the 30th day following issuance of the warrant. A constable or other law enforcement agency shall not request a duplicate warrant unless imminent service of the warrant is anticipated. For purposes of this paragraph, imminent service requires a good faith belief as to the whereabouts of the subject of the warrant and the likelihood that the warrant will be served within the immediately subsequent 12-hour period.
- 5. When a warrant is issued pursuant to Pa. R. Crim. P. 430, in service of the warrant, the constable shall either:
 - a. Accept a signed guilty plea in the full amount of the fines and costs as stated on the warrant;
 - b. Accept from the defendant a signed not guilty plea in the full amount of the collateral stated on the warrant; or
 - c. If the defendant is unable to pay the full amount of the fines and costs or collateral, cause the defendant to be taken without unnecessary delay before the issuing authority during normal court hours and before the duty Magisterial District Judge during non-court hours.

6. When a constable accepts fines and costs or collateral, the constable shall issue a receipt to the defendant setting forth the amount of the fines and costs or collateral received and promptly return a copy of the receipt, signed by the defendant and constable, to the proper issuing authority. Constables must return the warrant and any pleas, fines, costs, and/or restitution collected to the issuing authority no later than the close of business during the same business day or if served after normal court hours on the next business day. Constables should make every effort to resolve service of the warrant as per Pa. R. Crim. P. 430 before physically transporting the defendant to the proper issuing authority or for commitment to Columbia or Montour County Prison.
7. A constable shall immediately notify the issuing authority (MDJ) following service of a summary. A constable shall not receive the payment of fees for any judicial duty related to the service of a summary warrant unless the issuing authority has been immediately notified of the service of said warrant.
8. A constable shall not serve a summary warrant issued pursuant to Pa. R. Crim. P. 430 at a residence between 10:00 p.m. and 6:00 a.m. or after 10:00 p.m. on the day preceding 6:00 a.m. through the day following the legal holiday.
9. A constable shall not attempt to serve a summary warrant or take the subject of such a warrant into custody unless in possession of a valid warrant or duplicate thereof.

D. Return of Unserved Warrants

1. A constable or law enforcement agency who has been issued a duplicate of a warrant pursuant to this chapter shall return the duplicate of the warrant to the issuing authority no later than 12 hours after the constable's receipt of the duplicate in the event the constable or law enforcement agency is unable to effectuate service within that time period. Failure to return the copy/duplicate of a warrant within the time period set forth herein may, at the discretion of the President Judge, result in a revocation/restriction of one's right to perform judicial duties.
2. The issuing authority shall develop a policy to ensure compliance with this requirement within their office which shall include, at a minimum, a procedure to alert the Court Administrator's Office in the event of a constable's non-compliance.

3. A constable shall not, under any circumstance, make a duplicate or copy of any warrant for purposes of service of the duplicate or copy.

E. Warrant Service on Incarcerated Parties

1. Unless expressly approved in advance by the Issuing Authority, President Judge or Court Administrator, warrant service on parties already incarcerated or otherwise in the custody of prison officials is not authorized and will not be compensated.
2. The Court may authorize payment in Summary Warrant matters in the event, through the efforts of a constable seeking a defendant, the constable learns that a defendant is incarcerated in a County jail outside of Columbia and Montour County but within the Commonwealth, and relays that information to the issuing authority.
 - a. The Magisterial District Judge must indicate that he/she was unaware that the defendant was incarcerated in a County jail outside of Columbia and Montour County but within the Commonwealth when the warrant was issued.

IV. COMPENSATION

- A. **Preliminary Provisions** - Constables shall be paid fees in compliance with a fee schedule set forth in 44 Pa. C.S.A. § 7161 or subsequent legislative act or rule of court. Constables shall not be paid a fee for any judicial act committed in violation of the provisions of this manual. Fees shall not be paid unless the request for fees is made in compliance with the procedures set forth in this chapter.
- B. **Reimbursement Procedure** - Constables shall comply with the procedures of this section in seeking reimbursement for services. A request for reimbursement of services not in compliance with the procedures of this section may be denied on that basis.
1. Court Warrants/Process/Transportation Orders - Payment for the performance of judicial duties related to a Domestic Relations warrant, a bench warrant issued by the Court of Common Pleas for failure to appear in a criminal prosecution (CR docketed case), for failure to appear for a contempt proceeding (MD docketed case) and for transportation to a Court proceeding shall be submitted directly to the Court Administrator's Office on the form prescribed, from time to time, by the Court Administrator's Office. The Court Administrator, or designee, shall execute the fee request when appropriate and forward the same to the Chief Clerk for payment.
 2. Magisterial District Judge Warrants/Process/Transportation Orders - Payment for the performance of judicial duties related to the issuance of a warrant, other process or transportation order by a Magisterial District Judge shall be submitted to the Magisterial District Judge who authorized the service on the form prescribed by the Court Administrator's Office or the Administrative Office of the Pennsylvania Courts. The Magisterial District Judge shall acknowledge receipt of the request by executing the same and promptly forwarding the request to the Chief Clerk, or their designee for payment .
 3. All reimbursement forms shall be completed in their entirety. A form which is incomplete will be returned to the constable within seven business days of the form's receipt by the Court Administrator's Office and shall be considered as not having been filed for purposes of the time period set forth in Section IV (C) of this manual.
- C. **Time of Invoice** - Request for payment of all fees shall be made to the Court Administrator's Office or Magisterial District Judge, as appropriate, in the manner directed by this chapter within 30 days of the date of the

performed service. Although the County's liability for the payment of fees submitted after 30 days of the date of service shall be controlled by prevailing law, failure to submit requests for payment of fees within the time period set forth herein shall result in the revocation of a constable's privilege to perform judicial duties.

D. Mileage - The following rules shall apply to reimbursement for actual mileage:

1. Actual mileage for travel by motor vehicle shall be reimbursed at a rate equal to the highest rate allowed by the Internal Revenue Service.
2. No constable shall undertake travel in the performance of judicial duties by any mode other than motor vehicle unless prior written consent for the same is authorized by the Court Administrator.
3. In effectuating the service of process and/or warrant, actual mileage for travel by motor vehicle for purposes of the payment of fees shall be the number of miles from the issuing authority's office to the location where process and/or where the warrant is served plus the number of miles to the location of commitment, if necessary, plus the number of miles from the commitment location, or the acceptance of money in lieu of commitment to the issuing authority's office.
4. In effectuating a transportation order, actual mileage for travel by motor vehicle for purposes of the payment of fees shall be the number of miles from the issuing authority's office to the location of the party and back to the issuing authority's office. If the party is to be transported back to a location, actual mileage shall also include mileage for the return trip to that location and back to the issuing authority's office.
5. If, when preparing to transport or during a transport, it becomes necessary to obtain emergency medical attention for the person subject to a warrant, process or transportation order, the constable may seek emergency medical treatment and may count this time towards the time of transportation per the fee schedule set forth in 44 Pa. C.S.A. § 7161, plus any additional mileage to an emergency facility.

E. Hours Worked - All work that calculates reimbursement by the hour shall be rounded to the nearest quarter-hour.

- F. **Second Constable** – When a second constable is utilized in the service of a warrant, the second constable shall also examine the warrant to ensure that service of the warrant is in compliance with the provisions of this Manual. The second constable shall follow all requirements as described in the Manual and will be held to the same standards as the constable who obtained the warrant for service.

V. Central Warrant Repository

The Court believes that it would be more efficient and fair and expeditious to have a central repository, clearinghouse, or center for the Judicial District for managing warrants. One department or agency would maintain a complete log of issued and outstanding warrants. The Court encourages all interested parties to work toward that goal.

VI. CONSTABLE CODE OF CONDUCT

- A. Introduction** - A fair and independent court system is essential to the administration of justice. Although constables are not employees of the Commonwealth, the judiciary or any municipal agency, as an independent contractor, they provide services and aid to the judicial process. Proper conduct by those involved in assisting the judicial process inspires public confidence and trust in the Courts and conveys the values of impartiality and fairness that promote the integrity of our system of justice. A constable's conduct reflects upon the Court's commitment to serving the public. A constable performing judicial duties shall observe high standards of conduct so that the integrity and independence of the judicial system are preserved. The provisions of this code shall be applied to further those objectives. All constables performing judicial duties shall observe the standards of conduct set forth in this chapter. These standards however shall not limit or preclude, nor be interpreted to limit or preclude, other more stringent standards as established by law or by Court order or rule.
- B. Performance of Judicial Duties** - Constables performing judicial duties shall conduct themselves in an appropriate and lawful manner at all times and shall adhere to the following standards. Constables performing judicial duties:
1. Shall not engage in any form of discrimination, harassment, or retaliation against any person as prohibited by law or Court policy;
 2. Shall not engage in any form of violence, threat of violence, or disruptive conduct;
 3. Shall not make intentionally false or misleading statements when performing judicial duties. Specifically, a constable may not make a false statement of material fact or law or fail to correct a false statement of material fact or law to any party for purposes of obtaining compliance or forfeiture by a person of their legal rights;
 4. Shall not falsify, or improperly alter or destroy work-related documents or records;
 5. Shall not be impaired by alcohol, drugs, medications, or other intoxicating substances while performing judicial duties;
 6. Shall not give legal advice while performing judicial duties beyond an explanation of the duty they are performing and one's right to be represented by counsel;

7. Shall not illegally possess weapons or controlled substances while performing judicial duties;
8. Shall avoid impropriety or the appearance of impropriety in the performance of all judicial duties;
9. Shall not commit any violation of the law while performing their judicial duties;
10. Shall not be convicted of any crime which shall place their integrity, honesty, or credibility at issue or otherwise negatively reflect upon the integrity and independence of the Court or Court offices;
11. Shall not make any sexual advance, request for sexual favors, or perform other verbal or physical conduct of a sexual nature while in the performance of judicial duties. Such conduct shall include but is not limited to touching, fondling, patting, pinching, kissing, or other physical contact for sexual gratification;
12. Shall treat all those with whom they interact, including Court staff, with professionalism, dignity, respect, and impartiality;
13. Shall cooperate with all law enforcement agencies and their representatives including the Sheriff's Office, the A.C.A.C.C., and Columbia/Montour County staff;
14. Shall not use any means that has no substantial purpose other than to embarrass, delay, or burden the rights of another person or use methods that violate the legal rights of such person;
15. Shall not in any manner hold himself/herself out to be an agent, employee, or representative of any Court office; and
16. Shall not utilize a motor vehicle in the performance of judicial duties contrary to the provisions of the Pennsylvania Motor Vehicle Code.

C. Confidentiality - Constables shall not disclose or use confidential information obtained through the performance of judicial duties for any purpose not connected with the performance of their judicial duties.

D. Conflicts of Interest -

1. Constables shall not solicit, accept, or agree to accept anything of value from any person or entity doing or seeking to do business with, or having an interest in a matter related to the performance of judicial duties.

2. Constables shall not permit family, social, or other relationships to influence their official conduct or judgment, or to create the appearance of influence in the exercise of their official conduct or judgment, while in the performance of judicial duties. Constables performing judicial duties shall inform the Court Administrator of any situation creating undue influence or the appearance of undue influence.
3. Constables shall not use the resources, employees, property, facilities, time, or any funds under their control to improperly benefit themselves or any other person.

E. Use of Force - A constable's use of force shall be consistent with Pennsylvania law and in compliance with training and education provided by the C.E.T.B. A constable shall never employ unnecessary force or violence and shall use only such force in the discharge of duty as is reasonable under the circumstances. While the use of force is occasionally unavoidable, every constable in the performance of judicial duties shall refrain from applying any unnecessary affliction of pain or suffering and shall never engage in cruel, degrading, or inhuman treatment of any person. A constable shall not fire, unholster, or otherwise remove a firearm from its holster in the performance of judicial duties unless the same is necessary for the defense of the constable or others in response to the threat or use of deadly force against the constable or another where the action is consistent with firearms training provided by P.C.C.D. In no event shall a firearm be unholstered for purposes of intimidation.

F. Appearance -

1. **Dress** - All constables shall dress in customary law enforcement uniform or casual business dress while performing judicial duties. Denim jeans are considered neither customary law enforcement uniform nor casual business dress and are prohibited.
2. **Sign of Authority** - While in the performance of judicial duties, all constables shall prominently display a badge of authority on their outermost clothing. The badge of authority shall consist of either a Pennsylvania state constable patch or a badge pinned to the outermost garment, displayed around the neck, or attached to a belt. Additionally, while performing judicial duties, a constable shall carry at all times a constable certification card issued by C.E.T.B. indicating certification number and expiration date.

G. Duty to Report - Constables who are arrested, charged with, or convicted of a crime including summary offenses, which occurred while the constable was acting in the course of performing judicial duties, shall report this fact to the Court Administrator at the earliest opportunity however no later than three (3) business days from the date of arrest or receipt of charges. Constables who are arrested, charged with, or convicted of a crime other than summary traffic offenses not committed while in the performance of judicial duties, regardless of the jurisdiction in which the conduct occurred, shall report this fact to the Court Administrator at the earliest reasonable opportunity however no later than three (3) business days from the date of the arrest or receipt of charges.

ACKNOWLEDGMENT

I, _____, have received a copy of the Pennsylvania Unified Judicial System Constable Policies, Procedures, and Standards of Conduct. I also acknowledge receipt of a copy of the Twenty-Sixth Judicial District Constable Manual. I understand that in order to perform judicial duties, or to be paid for work performed for the Twenty-Sixth Judicial District, I must abide by the procedures and requirements set forth in the Pennsylvania Unified Judicial System Constable Policies, Procedures, and Standards of Conduct and the Twenty-Sixth Judicial District Constable Manual, including the Code of Conduct, and hereby agree to abide by those procedures and requirements.

Print Name

Date

Signature

Witness

Exhibit A

RECEIPT OF PURGE AMOUNT

Defendant: _____

Warrant caption: _____

Date: _____ Time: _____

This document evidences payment of \$ _____

by _____ (Defendant)

to _____ (Constable)

on the date set forth hereinabove.

The amount set forth on this document is the total amount of money paid by the Defendant to the Constable in regard to the warrant captioned above.

Defendant

Constable

Exhibit B