



PENNSYLVANIA FRATERNAL ORDER OF CONSTABLES

PAFOC NEWSLETTER
SPECIAL EDITION
FOR THE NOVEMBER 8 ELECTION, IN 2016

PAFOC: (717) 916-4483
www.pafoc.org

ELECTION DAY NEWSLETTER

Greetings, from your Constables and Deputy Constables!

The Pennsylvania Fraternal Order of Constables ("PAFOC") is a statewide organization dedicated to communicating and protecting the proper legal status of Constables and Deputy Constables in the Commonwealth of Pennsylvania. On behalf of these officials, we share with you this Election Day Newsletter highlighting the Pennsylvania laws that help guarantee free, civil, orderly, and legally correct elections on Election Day.¹

GENERAL ELECTION: NOVEMBER 8, 2016

We, the Constables, are looking forward, as we always do, to serving our communities whenever an election is held by the Commonwealth of Pennsylvania.

This year's election will be a **Presidential Election**. We are taking this opportunity to share this **SPECIAL EDITION** of our **PAFOC NEWSLETTER** with other government officials and citizens. It is helpful when we all communicate with one another about our respective and different roles in connection with the election, working together toward the common goal of guaranteeing free, civil, orderly, and legally correct elections whenever an election is held.

Please feel free to contact PAFOC with any Constable-related questions.

A publication of the
PENNSYLVANIA FRATERNAL ORDER OF CONSTABLES

The PAFOC is a Statewide organization dedicated to communicating and protecting the proper legal status of Constables and Deputy Constables

Online at www.pafoc.org

The Role of the Constable at Elections

Pursuant to Pennsylvania law, the Constable is the only law enforcement officer authorized to tend to the polling places on any Election Day.¹ No other officer may perform this duty: statute requires that this duty falls upon the local Constable, and upon the local Constable's deputies.

FAQ (frequently asked questions):

Q—Who chooses the Constable or Deputy Constable for Election Day?

A—The elected Constable is already in office in each ward,² township, city, or borough. Only that Constable can appoint deputies. Whenever there is a court order regarding a Deputy Constable appointment, it's not an appointment by the court—it's a court order approving the appointment made by the Constable.

[See "FAQ," continued on page 2 →]

¹ See **FAQ**, below. In this Newsletter, the term "Election Day" is used to refer to ALL Pa. elections: general elections, primaries, municipal elections, and special elections.

² Borough wards and city wards (not township wards).

**Pennsylvania statutes*
provide the framework
for Pennsylvania elections**

The Constable has always been an executive branch officer and officeholder pursuant to Pennsylvania law. The Pennsylvania Supreme Court has issued an opinion reminding us that “a constable is a peace officer,” that “the constable is a police officer” of a certain type, and that every Constable and every Deputy Constable is an executive branch officer and officeholder.

The Constable and the Deputy Constable have the statutory duty of “preserving the peace.” The Constable and the Deputy Constable keep the peace at and during the election and until the election board at the poll has finished counting the votes. This law is found at 44 Pa. C.S. § 7152 and this duty is referred to several times in section 1220 of the Pennsylvania Election Code.

Section 1220(d) is the familiar law which keeps all of the “leafletters” 10 feet from the polling place. Leafletters are not mentioned specifically. In fact, Section 1220 keeps EVERYBODY 10 feet from the polling place, unless the person is authorized by law to be inside. Some of the persons authorized by law to be inside the room include: the judge of election and the other members of the election board for that particular polling place, voters who are arriving or voting or leaving, officially appointed “watchers” with proper legal credentials, the Constable and his or her appointed deputies, and people from the county board of elections who are there for the purpose of fixing machines or for a similar purpose. Inside or outside, the Constable and the Deputy Constables do their task of keeping the peace, and, in addition, if the judge of election wants or needs help when someone refuses to leave, the judge of election can call upon the Constable or Deputy Constable to escort that person away.

At 8:00 p.m., everybody who is in line to vote may stay, and, at that time, the Constable or Deputy Constable makes sure that nobody who arrives after 8:00 p.m. gets into the line.

[continued ...]

[See “**STATUTES**,” continued on page 3 →]

* See the box near the bottom of page 3.

FAQ (continued from page 1)

Q—May the Constable and Deputy Constable on Election Day go inside and outside the polling place?

A—Yes. Certain officers may be present only under the very limited circumstances stated in the Election Code (see the article on “**PENNSYLVANIA STATUTES**” on pages 2-3 of this Newsletter).

By statute, however, the Constable and the Deputy Constable are the peacekeepers at the polling place, without being called in by any other officer. The decisions about how to carry out his or her peacekeeping responsibilities are decisions made by the Constable. The Constable’s and Deputy Constable’s duties include keeping the peace, both inside and outside the room where the voting takes place. (See also footnote 3 below, and see also the second FAQ on page 4.)

Q— Does the Constable wear a badge?
Does the Constable wear a uniform?
Does the Constable carry a firearm?

A—The decisions about how to carry out his or her peacekeeping responsibilities are decisions made by the Constable. The Pennsylvania Constitution and statutes prevent other officials from having a role in making these decisions. Neither the county judges, nor the county election board,³ nor any other state, county, or local officer has such a role, under Pennsylvania law.

The Constable may wear a uniform; or, the Constable may be in plain-clothes. The Constable may carry his or her firearm, if certified under Act 49 of 2009, which requires rigorous training under a state-designed law enforcement program; or, the Constable may choose not to do so.

At *all* polling places, the law designating the Constable as the Election-Day peacekeeper takes precedence over any other

[continued ...] [See “**FAQ**,” continued on page 3 →]

³ The election board regulates the conduct of elections; the peacekeeping duties are not part of conducting the election.

STATUTES (continued from page 2)

Section 1207 of the Pennsylvania Election Code requires that all police officers except the local Constable (or the Deputy Constable assigned by the local Constable) must stay 100 feet from the polling place at all times (except when going into the polling place to vote, when serving warrants, or when going into or leaving the police station, if the police station is inside that 100-foot exclusion zone). The only exception occurs when the judge of election for a particular polling place* calls for assistance because somebody is refusing to leave (or because there is an obstruction blocking voters from entering the polling place, or a present need to restore order, or a present disturbance which needs to be "quell[ed]"). In all of these situations, the judge of election* can call upon the Constable or Deputy Constable to clear the obstruction, to remove the person, to restore order, or to quell the disturbance. Section 1207 also requires that there shall never be a body of army troops at any poll.

Candidates for office have no special status—neither positive, nor negative. That is, a candidate has no special right to be present (unless voting, or as a credentialed "watcher"), and the candidate has no special rule keeping him or her further away (the SAME 10-foot rule applies to EVERYBODY who is not authorized by law to go inside the 10-foot line). Elected officials, too, have no special status—and therefore the local mayor, the county judges and president judge, your local state representatives, party officers—ALL of them must stay outside the 10-foot line.**

The judge of election has the duty to secure the observance of all of these laws about who can be where, and the Constable has the duty to keep the peace. The Constable keeps the peace by being on-site during the election, by ensuring that all indoor and outdoor conduct is orderly, by keeping everybody outside the 10-foot line, by keeping a clear path for the voters from the public road to the polling place, and by making sure that no disorderly conduct occurs in the room, so that that judge and his or her election board will be able to carry out their own responsibilities.

The provisions of Sections 1207 and 1220 of the Pennsylvania Election Code are found at 25 P.S. § 3047 and 25 P.S. § 3060, and, as transferred from § 1207, in 44 Pa. C.S. § 7152, and other laws also apply.

* Or, in some cases, the "election officers" of that poll, or, in certain situations, a qualified group of voters.

** The judiciary can decide an election-related CASE which is before the court, but county judges cannot SUPERVISE elections.

FAQ (continued from page 2)

law regarding carrying a firearm in that place. The Constable may wear a badge, or a nametag, or a nametag which simply says "[DEPUTY] CONSTABLE—ELECTION DAY OFFICIAL" with or without a personal name on it. The Constable is a separately elected official serving a statutory duty on Election Day.

Such a nametag can make the Constable or Deputy Constable visible to the people who are handing out leaflets "ten feet from the polling place," to allow them to recognize that this person (with the Constable badge or nametag displayed) is authorized to go inside the 10-foot arc, and inside the polling place—setting the Constable apart, visibly, from the other people gathered in and around the polling place.

Or, the Constable may choose not to display visible identification at all.

These decisions are up to the Constable. Each elected Constable is the governing official in his or her Office of Constable, which is a separate agency.

Q—Who pays the Constable or Deputy Constable for these services done on Election Day?

A—By law, the county pays a Constable or Deputy Constable exactly the same amount as it pays the election board inspectors and clerks. The county cannot impose any additional requirements, because the county is required by law to make this payment, just as it pays the inspectors and clerks.

Q—If there is a vacancy, can the Election Board appoint a Constable?

A—No. (However, see the next question.)

Q—If there is a vacancy, can the Court appoint a Constable?

A—Only if the Court follows the procedures in 44 Pa. C.S. § 7121, which requires both (1) a Petition signed by 10 voters, and (2) an Appointment for the full unexpired term of the vacancy. The law has no provision for an "election-day constable."

[continued ...] [See "FAQ," continued on page 4 →]

PENNSYLVANIA FRATERNAL ORDER OF CONSTABLES



USPS return address: "17111-0287"
USPS sender contact: "(717) 916-4483"
USPS sender contact: "www.pafoc.org"

PAFOC—Harrisburg, Pennsylvania

USPS ADDRESS SERVICE REQUESTED

**Time-Urgent Mail:
Election Day News—
Please route immediately
to Election Officials.**

---Page 4---

FAQ (continued from page 3)

Q—Can the Election Board
appoint Deputy Constables?
Can the Court
appoint Deputy Constables?

A—No. Deputy Constables are appointed ONLY
by the Constable, with "approval of" the Court.
See 44 Pa. C.S. § 7122, and the first "FAQ," on
page 1 above.

Q—Can the county assign or choose some other kind
of officer as the keeper of the peace on Election
Day?

A—No. See the article on "[Pennsylvania Statutes](#)"
on pages 2-3 of this Newsletter; the Election
Code limits who may summon these other
officers, and under what circumstances.

Q—Does the Constable or Deputy Constable enforce
the election laws?

A—Yes and no. The Constable keeps the peace.
Whenever this task arises because a violation is
occurring, then enforcement of the election laws
is a task for the Constable. Often, this task
involves keeping people 10 feet from the polling
place. Sometimes, this task involves escorting
someone away from the polling place after the
judge of election has determined that the person

cannot remain there. At all times it is the task
of the Constable to enforce all laws of the
Commonwealth of Pennsylvania whenever a
violation of those laws breaks the peace which
the Constable is tasked with keeping on Election
Day.

Q—Is the Constable or Deputy Constable an
employee of the county?

A—No. Each elected Constable is the governing
official in his or her Office of Constable, which is
separate from the courts, separate from the
county, and separate from the municipality,
being governed by Commonwealth of
Pennsylvania statutory law and common law.

We're here for the citizens

The PAFOC is dedicated to communicating the
legal status of Constables in Pennsylvania. Our
officers are sworn to serve the public as we
perform the duties of Constable and Deputy
Constable. If any governmental official or other
citizen has any questions for us about our role
on Election Day, we look forward to the
opportunity to address them and to "be here for
the citizens."