

To: The Department of Business Regulation

Re: Title 230, Chapter 30, subchapter 40

I am Rhode Island State Constable George R. Clark. I would like to address the proposed new regulations for the Rhode Island State Constabulary referenced above.

1.5B-6

Does the intentional failure to perform civil arrest disqualify a candidate for the position of Constable?

1.5B-13

By statute the Department of Business Regulation, "may waive training requirements." The law does not intend to exempt or eliminate training. The intent and purpose of this clause is to expedite or modify training for veteran law enforcement personal. For example, psychological testing has already been done. Drug testing would not be necessary. Training for these individuals should be condensed to the service of civil process only. Civil law enforcement is not taught in their training academy. The prior training and experience of retired law enforcement personal should count toward training in all but civil process.

1.5-D

Random assignment of Training Constables. Not all Constables are able to train. Not all Constables will be qualified to train.

1.5E-4

Failure on the written exam should disqualify a candidate for one year.

1.5-F

Should read Oath of Office.

1.6A-4

Civil arrest is in the job description.

1.7-A

Rhode Island State Constables should always be prepared to show credentials. Exceptions; when it would put a Constable in danger or when it would embarrass a defendant, a badge need not be displayed. Examples; walking through a high crime area, serving in places of employment, serving someone by appointment, serving in a public area, etc.

1.7-C

Receiving a license from The Department of Business Regulation is written approval for a metal badge. All Constables should be identifiable in a uniform manner.

1.8A-3

What is "unnecessary conversation." De-escalation requires connection and conversation. Additionally, building a relationship with a defendant helps when defendants have to be served multiple times. For example, Family Court cases often can last decades. Custody, child support, and other ongoing issues.

1.8A-7

Should read, Dress in professional manner or as appropriate to effect service.

1.8B-1

Attorneys often hire Constables who are also private investigators to find defendants. The Constable then serves the defendant. No conflict of interest.

1.8B-2

As long as no conflict of interest applies. It's not uncommon for a defendant who needs to be served to reach out to a Deputy Sherriff or Constable they know to

effect service. This reduces embarrassment and allows for empathy in delicate matters especially in Family Court cases. Attorneys represent family and friends.

1.9A

No statute applies. Should read; attempt to effect service at reasonable times except for extraordinary circumstance.

1.10A-3

Property owner has all rights to property. Constable has no authority to order landlord/property owner to hire locksmith.

1.10A-4

Generally this can't be known in advance. Only can be known after having made contact with defendant. Police usually will not enter property before Constable. Citing civil law enforcement not criminal.

1.10A-5

Not required. Written return of service is precedent. Written return of service on execution becomes part of the Court record. Returns of service fall under Court/Judiciary purview. Separation of powers conflict.

1.10A-6

Constable needs to have wide discretion here. We as policy do not rummage through defendants drawers and effects. The Court has maintained a hands off policy in handling most personal property. The point of a bonded and insured moving company is to keep third party distance with respect to defendant's property. Much in these cases is dependent on the defendant's behavior. Officer safety issues take absolute priority.

1.11-A

Civil arrest is part of the job being a Rhode Island State Constable.

1.13A-1

Random assignment of Training Constables. Not all are able to train as this may create an undue burden. Not all Constables are qualified to train. One may be a great Constable but not a good teacher. Perhaps a Constable Training program could be developed.

1.13A-3

Constable candidates needs 90 hours of training. The Training Constable to provide 90 hours of training will need to devote approximately 120 hours of time. \$1500 divided by 90 hours equals \$16.60 per hour. \$1500 divided by 120 hours equals \$12.50 per hour. Hourly rate should be higher.

I would like to suggest assembling a Constable committee to address the proposed regulations. The goal is to work together to ensure the regulations are correct, follow historical precedent and current law. We would like to have input to minimize any undue burden that would raise the cost of serving Court Process to the State's Citizenry.

Senior Rhode Island State Constable



George R. Clark

Chairman, Independent Constable Association, P.A.C.

TO: Department of Business Regulation
FROM: Kimberly Dulude

RE: Ideas with reference to: Title 230, Chapter 30, subchapter 40DBR

1.5(d)

.....TRAINING CONSTABLE RANDOMLY ASSIGNED BY THE DEPARTMENT PURSUANT TO 1.13 OF THIS PART

Being a Constable for 10 years, DOES NOT make him/her qualified to train another. There are many Constables who do not handle all types of services. Full evictions, Restraining Orders, Exparte orders (removing a child or spouse from a home), are all types of services that only a certain few Constables handle. The new constables MUST be trained in this category, even if they do not plan on performing these types of duties. Who will assure the training contains all of these duties? There needs to be a "criteria list" that assures certain duties are covered during training. Perhaps adding that a Constable with a disciplinary complaint filed against them within the past (year) should not be considered for training.

1.5(7)(a)

...HAS GRADUATED FROM A CERTIFIED POLICE OR LAW ENFORCEMENT ACADEMY and

1.5(7)(b)

...HAS A MINIMUM OF 20 YEARS OF HONORABLE SERVICE AS A {POLICE OR LAW ENFORCEMENT OFFICER

All rules and regulations for civil law enforcement need to be taught. Law Enforcement and Police Officers do not know the laws or Constable duties associated with evictions, ex-parte, etc... Although they clearly have witnessed evictions, etc...they have not been the party handling the eviction and assuming all responsibilities associated with same. There should be a modified training.

1.5(E)(4)

...IF THE APPLICANT FAILS THE WRITTEN EXAM, THE APPLICANT MUST WAIT 1 YEAR BEFORE BEING PERMITTED TO RETAKE THE EXAM.

If an applicant fails the test on the first attempt, they should have to wait a year. If you fail you really do need retraining. Failure will be mostly due to lack of training by the Constable (hence the need for certain Constables to be training, and should NOT be based solely on the duration of time being a Constable...10 years)

1.7(C)

IF ANY CERTIFIED CONSTABLE WISHES TO OBTAIN A METAL BADGE IN ADDITION TO HIS OR HER LICENSE, HE OR SHE MUST FIRST RECEIVE WRITTEN APPROVAL FROM THE DEPARTMENT.

All current Constables are identified by the same metal badge. All badges should duplicate the current badge so there are no issues with identification.

1.8(B)(1)

A CERTIFIED CONSTABLE SHALL NOT PERSONALLY PARTICIPATE IN THE SERVICE OF ANY WRIT, SUMMONS OR EVICTION IN A MATTER FOR WHICH THAT CERTIFIED CONSTABLE HAS ALREADY BEEN RETAINED AS A PRIVATE INVESTIGATOR.

There are CURRENT trainees that submitted training stating that they are simply becoming a Constable to be used by their own attorneys as a constable AND private investigator. A private investigator tracks a person, locates them, but cannot physically serve them. That does not seem fair, they should be allowed to serve them. However, I do not think modified training should be extended to them.

1.8(B)(2)

A CERTIFIED CONSTABLE SHALL NOT PARTICIPATE IN THE SERVICE OF ANY WRIT, SUMMONS OR EVICTION IN A MATTER INVOLVING ANY INDIVIDUAL WHO IS A RELATIVE FAMILY MEMBER OR CLOSE FRIEND.

A plumber, auto mechanic, locksmith, etc can all work for a friend or family member, what makes a Constable's service so different? All Constables know each other, how would this work? This can save embarrassment, etc... as long as there is no legal conflict of interest.

1.9(A)

ALL CERTIFIED CONSTABLES MAY EFFECTUATE SERVICE BETWEEN THE HOURS OF 6AM to 10PM EXCEPT FOR EXTRAORDINARY CIRCUMSTANCES THAT NECESSITATE SERVICE OUTSIDE THOSE TIMES.

Fair Debt Collection Practices Act 19-14.9-5 states differently. (after 8am before 9pm). Who determines "extraordinary circumstances"? What if a defendant works odd hours and requests a specific time.

1.10(a)(6)

ALLOW EVICTEES TO TAKE ANY IMMEDIATELY NECESSARY PERSONAL BELONGINGS INCLUDING BUT NOT LIMITED TO CLOTHING, MEDICATION, CHILDREN'S TOYS, SERVICE ANIMALS, PETS, CHECKBOOKS AND BILLS OF ANY KIND

As long as the party is not interfering in the move in any way, which is an additional cost to the landlord. This should be at the discretion of the Constable. Children's toys are plentiful and the move should not be held up for an item of this nature. FYI: All Constables put a "personal box" aside.

1.10(B)(1)

SET ASIDE AN APPROPRIATE RECEPTACLE CONTAINING THE EVICTEES NECESSARY, PERSONAL ITEMS INCLUDING BUT NOT LIMITED TO MEDICATION, PRESCRIPTION DRUGS, JEWELRY AND CASH, MAINTAIN PHOTODOCUMENTARY EVIDENCE OF THE ITEMS IN THE PERSONAL RECEPTACLE AND MAINTAIN THE PERSONAL RECEPTACLE IN A LOCATION SEPARATE AND APART FROM THE EVICTEES OTHER REMOVED PROPERTY.

A Constable should NEVER personally store items or take items home. The protocol is to label a box personal and the movers keep it with the other boxes in storage and at the same location. This is dangerous and illegal and causes the constable to be placed in a potential legal/disciplinary matter.

1.13(A)(1)

ANY TRAINING CONSTABLE SHALL BE RANDOMLY SELECTED BY THE DEPARTMENT FOR A CERTIFIED CONSTABLE APPLICANT WHO CERTIFIES THAT HE OR SHE IS UNABLE TO INDEPENDENTLY SECURE A TRAINING CONSTABLE IN ACCORDANCE WITH 1.5(B)(5) OF THIS PART.

In order to maintain QUALITY training, there should be a list of potential training Constables generated, as not all Constables are qualified to train. This list should contain Constables who perform a variety of duties. The duties should be outlined and if that Constable is not well versed or experienced in these areas he or she SHOULD NOT be allowed to train. Part-time Constables should NOT be allowed to train. Just because a Constable has been a Constable for ten years, DOES NOT make him or her qualified to train another. There are many Constables who do not handle all types of services. Full evictions, Restraining Orders, Ex parte orders (removing a child or spouse from a home), are all types of services that only a certain few Constables handle. The new Constables MUST be trained in this category, even if they do not plan on performing these types of duties, as they will be licensed to do so and should have total knowledge. Who will assure the training contains all of these duties? There needs to be a "criteria list" that assures certain duties are covered during training.

1.14(A)(1)(a)

...COURSES MUST CONSIST OF AT LEAST ONE CREDIT HOUR OF INSTRUCTION

It should be noted that the courses must be through the Independent Constable Association Training Academy, not just any training. If Constables are allowed to take any courses, they will NOT attend the seminars, which are crucial. We are required to have 2 ½ per year.....(5 credits per 2 year renewal)

I would like to suggest a committee of Constables to assist in this regulation process. I appreciate all you do and look forward to working with your team!

*Kimberly Dulude
Executive Board, Independent Constable Association*
