

**CHAPTER 51. TRAINING AND MINIMUM STANDARDS UNDER
THE WIRETAPPING AND ELECTRONIC SURVEILLANCE CONTROL
ACT**

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Authority

The provisions of this Chapter 51 issued under the Wiretapping and Electronic Surveillance Control Act, 18 Pa.C.S. § 5724, unless otherwise noted.

Source

The provisions of this Chapter 51 adopted June 22, 1979, effective June 23, 1979, 9 Pa.B. 1942, unless otherwise noted.

GENERAL PROVISIONS

§ 51.1. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

Act—Title 18 of the *Pennsylvania Consolidated Statutes*, Chapter 57 (relating to the Wiretapping and Electronic Surveillance Control Act).

Attorney General—The Attorney General of the Commonwealth.

Commissioner—The Commissioner of the State Police.

Source

The provisions of this § 51.1 adopted June 22, 1979, effective June 23, 1979, 9 Pa.B. 1942; amended August 6, 1993, effective August 7, 1993, 23 Pa.B. 3692. Immediately preceding text appears at serial page (43305).

§ 51.2. Introductory statement.

The Attorney General and the Commissioner together find that:

(1) The certifications of Commonwealth investigative and law enforcement officers as eligible to conduct wiretapping and electronic surveillance shall be issued in the following two separate classifications:

(i) Certification to monitor all communications intercepted under the act and, in addition, to conduct interceptions in cases when the Commonwealth investigative or law enforcement officer is a party to the communication to be intercepted or when at least one of the parties to the communication to be intercepted has given voluntary prior consent to the interception.

(ii) Certification to perform all monitoring and communications interceptions conferred upon Class A certified Commonwealth investigative or law enforcement officers and to conduct interceptions when there is no consent but prior court approval for the interception has been ordered under sections 5708—5713 of the act or when the interception is under section 5713.1 of the act (relating to emergency hostage and barricade situations).

(2) Certification in cases when there is at least the consent of one party will require less training, in both legal and technical matters, than in cases when there is no consent.

(3) The intent of the Legislature with respect to the training of Commonwealth investigative and law enforcement officers will be satisfied by this chapter and minimum standards.

Source

The provisions of this § 51.2 adopted June 22, 1979, effective June 23, 1979, 9 Pa.B. 1942; amended August 6, 1993, effective August 7, 1993, 23 Pa.B. 3692. Immediately preceding text appears at serial pages (43305) to (43306).

§ 51.3. Persons required to be certified.

(a) A Commonwealth investigative or law enforcement officer who takes custody of intercepting devices from a District Attorney or the Attorney General or the designee of one of these officials to perform an interception, who conducts an interception, or who monitors an interception shall first be certified according to this chapter.

(b) An investigative or law enforcement officer who is a District Attorney or the District Attorney's designee or the Attorney General or the Attorney Gener-

al's designee who approves a consensual interception need not be certified. Other law enforcement or investigative officers who are involved in the investigation in connection with which a conversation is intercepted, who perform assisting or ministerial functions in connection with the interception, whose only role in the interception is that of the consenting party, or who hear the interception but are not performing a formal monitoring function, need not be certified.

(c) An investigative or law enforcement officer of the United States who has been designated a Commonwealth investigative or law enforcement officer by the Attorney General or a District Attorney, and who has successfully completed a course of training in wiretapping and electronic surveillance sponsored by an agency of the United States which is determined by the Attorney General and the Commissioner to be the substantial equivalent of a course of training established by this chapter is deemed certified under this chapter, and therefore, eligible to monitor interceptions under the act. Before undertaking the duties and responsibilities of a monitor under this subsection, the investigative or law enforcement officer shall provide documentation from the agency by which the officer is employed establishing successful completion of the equivalent course to the attorney approving or supervising the interception or, for interceptions authorized under section 5713.1 of the act (relating to emergency hostage and barricade situations), to the supervising law enforcement officer authorizing the interception.

Source

The provisions of this § 51.3 adopted June 22, 1979, effective June 23, 1979, 9 Pa.B. 1942; amended August 6, 1993, effective August 7, 1993, 23 Pa.B. 3692. Immediately preceding text appears at serial page (43306).

§ 51.4. Classification of certifications.

Certifications issued under this chapter shall be designated as follows:

(1) Class "A" certification shall signify authority for the certified Commonwealth investigative or law enforcement officer as eligible, for the purposes of section 5724 of the act (relating to training), to monitor communications intercepted under the act and to conduct interceptions under section 5704(2) and (12) of the act (relating to exceptions to prohibition of interception and disclosure of communications). Class "A" certification, along with the other requirements delineated at section 5713.1(d) of the act (relating to emergency hostage and barricade situations) and § 51.5(1)(ix) (relating to minimum standards) shall be a prerequisite to eligibility to be named a "supervising law enforcement officer" under section 5713.1 of the act. Class "B" certified personnel shall only conduct interceptions under section 5713.1 of the act when requested to do so by a properly designated "supervising law enforcement officer."

(2) Class "B" certification shall signify authority for the certified Commonwealth investigative or law enforcement officer as eligible, for the pur-

poses of section 5724 of the act, to engage in activities authorized for investigative or law enforcement officers having Class “A” certification and, in addition thereto, to engage in the conduct of communication interceptions for the purposes of sections 5708—5713.1 of the act. Class “A” certification shall be a prerequisite for a Class “B” certification.

Source

The provisions of this § 51.4 adopted June 22, 1979, effective June 23, 1979, 9 Pa.B. 1942; amended August 6, 1993, effective August 7, 1993, 23 Pa.B. 3692. Immediately preceding text appears at serial page (43306).

§ 51.5. Minimum standards.

Before certification shall issue to a Commonwealth investigative or law enforcement officer, the officer shall take and pass a comprehensive examination demonstrating a working skill or knowledge pertaining to specific areas determined by the class of certification sought.

(1) Each officer applying for Class “A” certification shall be required to demonstrate skill or knowledge relating to:

(i) The contents of the act, including procedures mandated by the act relative to consensual interceptions as well as the difference between consensual and nonconsensual wiretapping or eavesdropping.

(ii) The requirements of the Constitutions of Pennsylvania and the United States relating to consensual and nonconsensual interceptions, including relevant privacy considerations.

(iii) The Federal law pertaining to electronic surveillance.

(iv) The meaning and significance of voluntary consent.

(v) The appropriate authorities to authorize a consensual interception and the method of seeking prior approval from the authorities.

(vi) The law regarding entrapment.

(vii) The situations when recordings may be appropriate or required, including justification for their use and the methods employed; proper monitoring procedures, including the requirements relating to minimization and privileged communications; report writing and recordkeeping functions; and procedures for the maintenance and custody of recordings made under the act.

(viii) The various kinds and types of equipment available for consensual interceptions, as well as their proper, lawful and effective utilization, custody and care.

(ix) The contents of the act, including procedures mandated by the act relative to section 5713.1 of the act (relating to emergency hostage and barricade situations), in addition to the requirements listed in subparagraphs (i)—(viii) for standard Class “A” certification, when the Commonwealth

investigative or law enforcement officer is a candidate for designation as a “supervising law enforcement officer” as defined at section 5713.1(d) of the act.

(2) Each officer applying for Class “B” certification shall demonstrate, in addition to the requirements listed in paragraph (1) for Class “A” certification, a skill or knowledge relating to:

(i) The contents of the act including procedures mandated by the act relative to nonconsensual or court-authorized interceptions.

(ii) The legal concept of probable cause, with specific emphasis on the requirements of section 5710 of the act (relating to grounds for entry order).

(iii) The requirements of the act relating to exhaustion of standard investigative techniques.

(iv) The availability under the act of court-ordered assistance from a communication common carrier and court-ordered entry of private premises in aid of an interception.

(v) The requirements of the act relating to disclosure and the use of interceptions.

(vi) The proper, lawful and effective utilization, installation and care of interception equipment which may be used in accordance with the act.

(3) Qualification for either Class “A” or “B” certification requires that the Commonwealth investigative or law enforcement officer satisfactorily complete the Certified Training Program by attaining a minimum grade of 80% in the Program Examination after attending the prescribed classes. Separate program examinations shall be given for the Class “A” and Class “B” certifications.

Source

The provisions of this § 51.5 adopted June 22, 1979, effective June 23, 1979, 9 Pa.B. 1942; amended August 6, 1993, effective August 7, 1993, 23 Pa.B. 3692. Immediately preceding text appears at serial pages (43307) to (43308).

Cross References

This section cited in 37 Pa. Code § 51.8 (relating to hours and subject matter).

§ 51.6. Certification training programs.

Training programs for purposes of certification shall be conducted at such times and locations in this Commonwealth as shall hereafter be announced.

§ 51.7. Fees.

A reasonable enrollment fee to cover instructional costs shall be charged to each Commonwealth investigative or law enforcement officer who attends a Certification Training Program. Whenever necessary and possible, room and board shall be made available to attendees at a fee to be announced prior to the scheduled program.

Source

The provisions of this § 51.7 adopted June 22, 1979, effective June 23, 1979, 9 Pa.B. 1942; amended August 6, 1993, effective August 7, 1993, 23 Pa.B. 3692. Immediately preceding text appears at serial page (43308).

§ 51.8. Hours and subject matter.

The certification training programs for Class “A” and Class “B” certifications shall include lectures, demonstrations, practical applications, and examinations, and shall consist of no less than a three-day session for officers seeking Class “A” certification, and a separate and additional session for officers seeking a Class “B” certification consisting of not less than eight days. Each respective training program shall cover the minimum standards for the respective classification set forth in § 51.5 of this chapter (relating to minimum standards) as well as additional legal and technical aspects of wiretapping and electronic surveillance.

§ 51.9. Certification.

Certifications and certification numbers shall be issued to officers who have completed the prescribed course of training and passed the examination.

§ 51.10. Recertifications.

Recertifications Training Programs shall be conducted when considered necessary in the judgment of the Attorney General and of the Commissioner.

§ 51.11. Decertification.

In the event that it appears to the Attorney General and the Commissioner that an investigative or law enforcement officer previously certified has violated the law relating to electronic interceptions of communications or has substantially failed to comply with applicable written regulations or procedures in the electronic interception or attempted electronic interception of a communication, the Attorney General and the Commissioner may suspend or revoke the officer’s certification; provided, however, that before a certification shall be revoked the certified officer shall be given written notice of the violation of law or failure to comply that is charged and shall be afforded a hearing, if requested, before a designated hearing officer agreed upon by the Attorney General and the Commissioner. The decision of the designated hearing officer shall constitute final administrative action with respect to the question of revocation of certification. During the period between receipt of notice and final decision of the hearing examiner, certification shall be suspended.

§ 51.12. Automatic termination of certification.

A certification shall automatically terminate and shall automatically be considered revoked upon a certified officer’s loss of his status as an investigative or law enforcement officer. It shall be the duty of the certified officer to immediately

return his certification card and certificate to the Commissioner upon loss of status as an investigative or law enforcement officer.

§ 51.13. Failure to complete recertification program.

Certifications shall terminate upon notice to the certified officer that he has failed to complete a recertification training program of which the officer has been notified and instructed by the Attorney General and the Commissioner to attend in order to maintain certification. It shall be the duty of the Certified Officer to immediately return his certification card and certificate to the Commissioner upon failure to complete a recertification program.

§ 51.14. Educational newsletter.

Certified officers will be informed of updates and changes in laws, procedures, and other relevant matters by a periodic newsletter.

§ 51.15. Applications.

Commonwealth investigative and law enforcement officers desiring to undergo training and to obtain certification shall submit a letter of application for training and certification to the Commissioner of the State Police at the address indicated on the application. Applications shall be submitted through the officer's agency head. The Attorney General or Commissioner shall be authorized to reject any application, and to refuse acceptance of any applicant into the program.

Source

The provisions of this § 51.15 adopted June 22, 1979, effective June 23, 1979, 9 Pa.B. 1942; amended August 6, 1993, effective August 7, 1993, 23 Pa.B. 3692. Immediately preceding text appears at serial page (43310).

FORMS

§ 51.21. Official forms.

The following official forms, which are attached hereto and made part of this section, have been promulgated under provisions set forth in this chapter:

- (1) Form SP 5-102, Certificate of Training.
- (2) Form SP 5-102A, Identification Card.

FRONT

	<p><i>Commonwealth of Pennsylvania</i></p> <p>CERTIFICATE OF TRAINING</p> <p>This is to Certify that</p>
<p>_____</p> <p>has successfully completed the prescribed course of Training and is hereby Certified to Utilize Electronic Surveillance Pursuant to the Provisions of Chapter 57, of Title 18, as amended.</p>	
<p>Given this day of 19</p>	
<p>CLASS "A"</p>	
<p>_____ CERTIFICATION</p>	
<p>Commissioner, Pennsylvania State Police</p>	
<p>_____ No.</p>	
<p>Office of The Attorney General</p>	

BACK

SP 5-102 A (4-82)											
Property of Pennsylvania State Police	IDENTIFICATION CARD										
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	Color Eyes	Color Hair									
Date Certified	Certification No.										

SP 5-102 (4-82)



Certificate of Training

This is to Certify that

*has successfully Completed the Prescribed Course of Training and is hereby
Certified to Utilize Electronic Surveillance Pursuant to the Provisions of
Chapter 57, of Title 18, as amended.*

Given This day of 19

Commissioner, Pennsylvania State Police

CLASS "A" CERTIFICATION

No.

Office of The Attorney General

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