

THE COURTS

Title 204—JUDICIAL SYSTEM GENERAL PROVISIONS

PART V. PROFESSIONAL ETHICS AND CONDUCT [204 PA. CODE CH. 82]

Changes to the Pennsylvania Continuing Legal Education Board Regulations

Annex A

TITLE 204. JUDICIAL SYSTEM GENERAL PROVISIONS

PART V. PROFESSIONAL ETHICS AND CONDUCT

CHAPTER 82. CONTINUING LEGAL EDUCATION

Subchapter B. CONTINUING LEGAL EDUCATION BOARD REGULATIONS

Section 1. Definitions.

Accredited Continuing Legal Education Provider—A [not-for-profit] corporation or association accredited by the Board in accordance with the rules and these regulations.

* * * * *

Provider—A [not-for-profit] corporation or association which has been accredited by the Board to provide continuing legal education under these regulations or a [not-for-profit] corporation or association which provides one (1) or more continuing legal education courses approved by the Board.

* * * * *

Section 11. Accreditation of Accredited Continuing Legal Education Providers.

* * * * *

(g) The Board shall accredit for profit corporations and associations as CLE providers in accordance with the rules and these regulations. Such accreditation of a for profit provider shall be effective on and after January 1, 1997. CLE credit will only be given for CLE courses offered and conducted outside the territory of Pennsylvania by accredited for profit corporations or associations.

Section 12. Accreditation of a Single Course or CLE Activity.

* * * * *

(d) The Board shall accredit courses offered and conducted outside the territory of the Commonwealth of Pennsylvania by for profit corporations or associations where such courses meet the requirements of the rules and these regulations. Such accreditation shall apply to courses to be conducted on and after January 1, 1997.

[Pa.B. Doc. No. 96-2005. Filed for public inspection November 29, 1996, 9:00 a.m.]

Title 255—LOCAL COURT RULES

BRADFORD COUNTY

Rule of Civil Procedure 216: Continuances; No. 961R

Order

And Now, this 18th day of November 1996, the Court hereby adopts the following Bradford County Rule of Civil Procedure, to be effective thirty (30) days after the date of publication in the *Pennsylvania Bulletin* or January 1, 1997, whichever is the latter date.

It is further ordered that the District Court Administrator shall file seven (7) certified copies of this Rule with the Administrative Office of Pennsylvania Courts, two (2) certified copies to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*, one (1) certified copy to the Civil Procedural Rules Committee and one (1) copy to the *Bradford County Law Journal* for publication in the next issue of the *Bradford County Law Journal*.

It is further ordered that this local rule shall be kept continuously available for public inspection and copying in the Prothonotary's Office.

By the Court

JEFFREY A. SMITH,
President Judge

B.C.R.C.P. 216

CONTINUANCES

(1) A motion for a continuance shall be made in writing unless exceptional circumstances prevent a written motion.

(2) Before making a motion for continuance, every reasonable effort shall be made to notify and seek the agreement of all interested parties.

(3) The written motion shall be in substantially the following form:

: IN THE COURT OF COMMON PLEAS
vs. : OF BRADFORD COUNTY, PENNSYLVANIA
: NO.

NOW COMES _____ (name of party), (by and through (his) (her) (its) attorney, _____ (name of attorney),) and moves for a continuance as follows:

1. The above-captioned matter is scheduled for _____ (nature of proceeding, i.e., argument, hearing, arraignment, etc.) on the _____ day of _____, 199____, at _____m., before _____ (name of judge, master, etc.).

2. The moving party for said proceeding is _____ (name of party whose claim is to be heard).

3. The opposing parties are:
_____ represented by: _____
_____ represented by: _____
_____ represented by: _____
_____ represented by: _____

4. The proceeding was scheduled by _____ (order or notice) dated _____ (date).

5. The proceeding (has) (has not) been previously continued (_____ time(s)). (The moving party has obtained a continuance _____ time(s).

6. A continuance is requested because _____

(If a continuance is requested because of a conflicting court matter, state: the name of the case; the court; the nature of the scheduled proceeding; the date, time and expected duration of the conflicting proceeding; the date of the order or notice scheduling the conflicting proceeding.)

7. The following parties have been notified of this request and have no objection: _____

The following parties have not been notified of this request: _____

Efforts to notify the above-named parties include: _____

The following parties objected to the continuance for the reason stated herein: _____

8. I hereby certify that if a continuance is granted, the party moving for the continuance will be provided a copy of this motion forthwith and I will notify all witnesses who would be appearing at my request.

9. I specifically request a continuance
 of not less than _____
 of not more than _____ (or)
 to the next available date.

Respectfully submitted,

(4) A motion for continuance shall be accompanied with a proposed order in substantially the following form:

ORDER

And Now, this _____ day of _____, 199____, upon consideration of the attached motion of _____ (moving party) requesting a continuance:

the motion is denied.
 the motion is granted and the matter scheduled for _____ (date) at _____ m. (time) before _____ (name of judge, master, etc.) is hereby continued until _____ (date) at _____ m. (time).

The moving party shall promptly notify all interested parties of this order.

BY THE COURT:

(5) A motion for a continuance shall be made as soon as possible after the circumstances necessitating the request become known.

[Pa.B. Doc. No. 96-2006. Filed for public inspection November 29, 1996, 9:00 a.m.]

CARBON COUNTY

Use of Force Policy; No. 083 MI96

Administrative Order 9-1996

And Now, this 13th day of November, 1996, in order to establish and maintain lawful control in a timely manner to minimize the potential for injury to parties directly involved as well as others, the Court of Common Pleas of Carbon County hereby Approves and Adopts the Use of Force Policy, which is following and made a part hereof and the same is promulgated herewith to become effective thirty (30) days after publication in the Pennsylvania Bulletin; that seven (7) certified copies shall be filed with the Administrative Office of Pennsylvania Courts; that two (2) certified copies shall be filed with the Legislative Reference Bureau for publication in the Pennsylvania Bulletin; and that one (1) certified copy shall be filed with the Criminal Procedural Rules Committee.

By the Court

JOHN P. LAVELLE,
President Judge

General Policy

The consideration in the use of force is the preservation of life and physical safety.

The objective of the use of force by authorized personnel is to establish and maintain lawful control in a timely manner to minimize the potential for injury to parties directly involved as well as others.

Control must be established:

for the safety of the officer and others in response to perceived danger.

when necessary to accomplish duties authorized by law.

The degree of force authorized is the degree necessary to establish lawful control in a timely manner. This degree of force depends upon the degree of danger or resistance perceived by the officer.

Deadly force is that degree of force likely to cause serious physical injury or death. Officers may employ deadly force as a last resort, when they perceive an immediate danger of loss of life or serious bodily injury.

Guidelines

Identification

If circumstances permit, the officer must make his/her identity as an enforcement officer known.

Warning

Whenever possible, the officer must exercise persuasion, advice and warning before using force. If such verbal

control would be (or is found to be) ineffective, the officer may use physical force to accomplish a lawful purpose.

Timeliness

Timely means "on time" and "not late." Officers need not wait for injury to occur to themselves or others before taking appropriate action to prevent it.

Use of Excessive Force

The use of excessive force is prohibited by Federal and State laws. Violation of these laws can carry both civil and criminal penalties. Officers will be held accountable for the use of force.

Purpose of Force

The purpose of any level of force shall be control and maintaining a level of advantage as defined by the Pennsylvania Crimes Code, 18 P. S. § 508, Use of Force in Law Enforcement.

Use of Force Model

"The Use of Force Paradigm for Enforcement and Corrections," as developed by John Desmedt of the Police Safety System, is formally adopted, subscribed and employed.

Use of Force Considerations

- a. Subject's immediate threat to safety.
- b. Subject's active resistance or attempt to escape.
- c. Severity of crime involved.
- d. An officer's ability to disengage.
- e. The circumstances existing at the moment force is used.
- f. The tactics employed by an officer that may have caused a use of force decision to become necessary.

Reasonable Control Guidelines

- a. Matching force to their resistance.
- b. Correctly applying techniques and equipment appropriate to that force level.
- c. Applying alternative options if tactics fail to establish control.

Less Than Lethal Weapons Policy

Less than lethal weapons may be used to overcome subjects who attack and/or resist attempts to establish lawful control by the officer.

Qualification to Carry Less Than Lethal Weapons

Intermediate weapons are authorized for carrying and use if:

1. Such weapons comply with standards established for such authorized weapons and
2. Each officer carrying such weapons has met the established training standard.

The dates and number of hours of all intermediate weapons training will be made a matter of permanent record.

Authorized Less Than Lethal Weapons

Less than lethal weapons are weapons other than firearms, designed to supplement or replace weaponless control methods. Less than lethal weapons allow the officer to lessen the possibility of direct violent contact with subjects. Less than lethal weapons are not intended to replace firearms because they may not be effective when the use of lethal force is necessary.

Impact Weapons

Impact weapons are weapons designed to establish control by means of mechanical impact.

Impact Weapons Guidelines

Do not direct impact weapon techniques to the head, neck, or spine unless the use of deadly force is appropriate.

As a general rule, do not draw an impact weapon in the presence of the public except when its use is expected.

An impact weapon can also be used as a control instrument when appropriate.

Control Instruments

Control instruments are instruments used in conjunction with weaponless control techniques to apply mechanical pressure to pain sensors, thereby effecting control. A control instrument is not intended to replace either a firearm or an impact weapon; it may not suffice to establish control when the use of an impact weapon or firearm is appropriate.

Control Instrument Guideline

Do not direct control instruments use to the neck unless the use of deadly force is appropriate.

Oleoresin Capsicum (OC)

Oleoresin Capsicum is a ground pepper mixture designed to temporarily render an individual incapable of continuing attack or resisting lawful authority.

OC Guidelines

OC should only be directed at the person to be controlled for the amount of time required to establish control.

The training standard for the use of OC will include instruction in:

1. The proper and improper use of the specific chemical agents as determined by statute, regulation and manufacturer recommendation.
2. Expected results of the use of OC.
3. Exposure to the effects of OC.
4. Procedure and first aid following the use of OC.

Handcuffing/Transporting

When an arrest is planned, two officers should be available for every subject that is to be arrested, when possible.

If a subject is handcuffed behind his back, officers shall not allow the subject to remain or wait on their abdomen. The subject should wait on their side or in other than the abdominal prone position. This is a precaution to prevent possible positional asphyxiation. Officers will check the handcuffs for appropriate fit, not too loose or too tight, prior to transporting. Transportation belts and/or leg irons may be used if the officer feels they are appropriate.

Officers are responsible for continuously monitoring arrestee for security and signs or symptoms of illness or injury while in custody.

Deadly Force

Deadly force is defined in the Pennsylvania Crimes Code, 18 P. S. § 501 as:

"Force which, under the circumstances in which it is used, is readily capable of causing death or serious bodily injury."

Serious Bodily Injury Definition

a. The legal definition of serious bodily injury is defined in the Pennsylvania Crimes Code, 18 P. S. § 2301 as:

“Bodily injury which creates a substantial risk of death or which causes serious, permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.”

b. The operational definition of serious bodily injury shall be as defined by the use of force model as:

- i. An open gash or wound;
- ii. Major broken bones; and/or
- iii. Damage to internal organs.

Deadly Force Policy

The use of deadly force by officers shall be strictly limited to defensive situations.

If appropriate, officers shall exhaust all other types of force before resorting to the utilization of deadly force.

When the use of deadly force is justified, officers discharging weapons shall not shoot to kill nor shoot to wound, but rather to stop the action by causing the instant incapacitation of the subject. For maximum stopping effectiveness and to minimize the danger to innocent bystanders, officers should shoot at center body mass.

Firearms shall not be drawn or displayed routinely during arrests, nor should they be used for any other reason other than as described above.

Officers shall not utilize deadly force in an offensive posture to effect the apprehension of those persons who commit violations of probation or parole, fail to pay child support, or any other law amounting to summary, misdemeanor or felony offenses, which do not present the threat of death or serious bodily injury. Nothing contained in this policy shall preclude the use of deadly force for self defense, when warranted.

Warning

Where practical in a deadly force situation, officers shall identify themselves as peace officers and give some type of warning prior to the use of deadly force, if the time and opportunity exists.

Requirements for Righteous Deadly Force

Accurately assessing a subject's imminent potential for attacking in a life threatening manner; the immediate and simultaneous existence of intent, weapon, delivery system and target.

Articulating why an officer feared for their life or the life of another when deadly force action was taken.

Explaining why a lower level of force was inappropriate and ineffective, and why disengagement was not possible.

Warning Shots

Warning shots are strictly prohibited under all circumstances.

Target Identification and Isolation

Officers facing a decision to use deadly force must be aware of any innocent third parties that may be present in or near the line of fire.

Officers are prohibited from discharging firearms when they cannot identify their target and it appears reasonable and likely that an innocent person(s) may be injured, unless the prohibition in discharging a weapon is likely to

result in the immediate death or serious bodily injury of the officer or another person.

Officers shall establish target identification and target isolation.

Shooting and Moving Vehicles

a. Officers shall not discharge a firearm at or from a moving vehicle except under the following conditions:

i. As a last resort measure of self-defense when the subject is using deadly force by means of other than the vehicle.

ii. As a last resort measure of self-defense when a vehicle is being driven in a manner deliberately intended to kill or injure an officer or other party.

b. In deciding to shoot at a moving vehicle, officers must take into account the following limitations and consequences:

- i. The difficulty of hitting a moving target.
- ii. The possibility of ricochets striking unintended targets.
- iii. Population densities.
- iv. The difficulty in penetrating the automobile body and/or steel belted radial tires.
- v. The inability to stop a vehicle's momentum even when the target actor is hit.
- vi. The possibility of damage or injury which might result from causing the vehicle to go out of control.

Firearms Policy**Home Safety**

It is essential that the officer assigned to carry a firearm instruct his/her family members in the proper use and handling of the firearm. It should be made perfectly clear that the firearm is not to be handled by any one other than the officer or a mature adult. The officer is responsible to educate his family members on the safety and proper handling of the firearm. All firearms should be kept out of the reach of children and immature or irresponsible adults and stored in a secure area. Older children may be given gun instruction with the extent of the training being dependent on the child's maturity and judgement of the parents.

Immediately upon entering your residence, the firearm should be unloaded, the magazine removed from the firearm and the firearms and equipment stored in a secure area. Officers are encouraged to store the ammunition, magazines and the firearm in different areas. The firearm must not be left unattended and accessible while in the residence. It shall be the responsibility of the officer to ensure that the firearm is properly secured in his/her residence.

The firearm should be kept beyond the reach of small children. A locked cabinet or drawer would be acceptable. Also, the firearm and its ancillary equipment should be stored in separate areas, but always in the same location.

Firearms shall not remain loaded while in the residence. The officer shall immediately unload the weapon when he/she enters the residence. All ammunition should be kept in a safe location away from the weapon. Also, the ammunition should be stored in a cool, dry place to prevent deterioration.

As a suggestion, a trigger guard lock will secure the firearm from accidental discharge. The key to the trigger guard should be kept on the officer's person at all times.

The officer shall not leave his duty weapon unattended while in his residence. The weapon must be secured at all times.

Requirement to Notify the Department of Physical and Pharmacological Conditions Affecting the Ability to Carry a Firearm

Officers shall notify their immediate supervisor of any physical or pharmacological conditions causing physical and/or emotional impairment. Impairment shall be defined as a condition which can affect judgement, reaction time or motor skills as it may affect the ability to handle a firearm safely.

In those instances where an officer believes and/or medical personnel indicate that a medication may affect judgement and/or reaction time, authorization to carry a firearm shall be suspended. Authorization shall be reinstated upon the cessation of the medication and its effects or with a physician's ruling that the medication's potential contraindications would not be aversive to handling a firearm safely and proficiently.

Prohibited Use of Officially Issued Firearm

Issued firearms may be used only for official purposes. Employees who use issued firearms for other than officially authorized purposes shall be subject to disciplinary action.

Display of Firearm

A firearm may be displayed or drawn only when the employee must prepare for its immediate use. Employees will not unnecessarily display firearms in the presence of the public. Personnel will guard against accidentally exposing firearms, whether worn or carried in a bag or case.

Carrying Firearms While on Duty

Personnel authorized to carry firearms shall carry only firearms which were issued or with which they have qualified.

Firearms Standards and Specifications

Agency issued handguns will be left to the discretion of each department. Officers may carry personal handguns, providing they meet the qualification standards necessary and the handgun is approved by the firearms training officer.

Carrying/Deploying Shoulder Weapons

Employees are authorized to carry only shoulder weapons when officially assigned or permitted to do so. Shoulder weapons are not authorized for off duty use.

Holsters and Other Firearms Carrying Devices

Personnel, who are authorized to carry handguns, may carry them in holsters of their choosing providing that the holster:

1. is designed for that handgun to be carried,
2. has a keeper with a positive retaining device, and
3. is positively secured to the employee's area.

Personnel will not carry handguns in briefcases or purses while on duty except when necessary to accomplish their assignment.

Firearms Security and Accountability

Employees are directly responsible for the safety and security of authorized firearms. Employees may be required to reimburse the County for the costs of lost or damaged firearms if:

1. an official investigation establishes that the employee is negligent or otherwise at fault, and
2. it is administratively decided that reimbursement is to be made.

Failure to safeguard or otherwise secure firearms may result in disciplinary action.

Procedures Following Discharge of Firearms

Employees shall report all discharges of firearms (except for training or qualification purposes) to their immediate supervisor.

Employees shall file a written incident report immediately following the discharge.

The police that have jurisdiction over the area where the firearm was discharged will be notified immediately.

The employee shall immediately surrender the firearm involved to their supervisor or requesting police officer.

Storage of Firearms

Firearms will be stored unloaded in a locked container. Ammunition will be stored separately from firearms. This applies to storage in the office, the employees place of residence, and any other location that the employee may have need to store a firearm.

Procedures for Loss, Theft, and Disposal of Firearms

Employees must report the loss or theft of an issued or auxiliary firearm to their immediate supervisor.

This report must be made within 24 hours of the loss by telephone or in person. The initial notification will be followed immediately by a written report describing the circumstances surrounding the loss or theft of the firearm.

The employee should take immediate reasonable action to recover the firearm and to obtain all information available to aid in the investigation and recovery of the firearm. Employees must seek assistance from the appropriate law enforcement agency as soon as possible.

Inspection and Maintenance of Firearms

Cleaning of Firearms

Employees are responsible to clean and lubricate handguns issued to them after each use or whenever the handgun has been subjected to moisture or dirt. Employees that carry a handgun other than the issued handgun, must ensure that the firearm is cleaned and functional.

Firearms with mechanical problems that cannot be corrected by routine cleaning must be taken out of service and sent to a qualified armorer for repair.

Ammunition Standards

Employees will carry only ammunition that is issued.

Security and Storage of Ammunition

Ammunition should be secured separately from firearms in a locked, cool, dry cabinet, vault or storeroom accessible only to authorized personnel.

Employees are issued a box of ammunition upon successful qualification. This box is to be used for the next year's qualification to ensure minimal deterioration.

Firearms Training

Firearms Training and Qualification Standards

All firearm carrying personnel are required to score at least 75% on all qualification courses.

Initial Firearms Qualification Requirements

Newly hired employees do not have authority to carry or discharge firearms until successfully completing basic firearms training.

Upon successful completion of the relevant basic training course, employees will be authorized to carry and discharge firearms in accordance with Carbon County policies.

Firearms Requalification Standards

All firearms carrying personnel are required to score at least 75% on all qualification courses. All firearms carrying personnel must requalify with firearms they are authorized to carry annually.

Firearms Training Records

Firearms instructors will record all firearms training scores in a permanent file.

Body Armor

Firearms carrying personnel are encouraged to use body armor during planned arrest, warrant service and other activities which present risk of subjects possessing firearms. However, authorizing officials or their designees may make the wearing of body armor mandatory under conditions they deem appropriate. Firearms carrying personnel should be familiar with the ballistic protection capability of their body armor.

Reports

A Subject control report will be completed whenever an officer is compelled to use force on a subject who, on the use of force model, is a resister or assailant; or upon the request of a supervisor.

A Subject control report will be completed within 24 hours of occurrence of the incident when practical. If circumstances do not permit the report to be completed within 24 hours, it should be completed as soon as circumstances permit.

Debriefing

A debriefing is a structured meeting held after the incident, either in a one on one situation or in a small group. The individual or group should evaluate the performance of the officer and take corrective action as needed. Debriefing is a concise review or an event, conducted by all participating department and ancillary agencies (as required). The process of reviewing all aspects of an event, by all participants, to assess strengths, weaknesses, problems and concerns relevant to the actions employed in correlation to anticipated and actual outcomes.

[Pa.B. Doc. No. 96-2007. Filed for public inspection November 29, 1996, 9:00 a.m.]

CRAWFORD COUNTY**Adoption of Civil Rule of Court LJA1901A: Content of List****Order**

And Now, November 1, 1996, it is ordered and directed that Rule LJA1901A entitled "Content of List" of the Crawford County Civil Rules of Court be amended to read as follows:

Rule LJA1901A. Content of List.

The Prothonotary shall compile a list of inactive cases as of January 1 of each year comprised of all civil action matters in which no steps or proceedings have been taken for two (2) years or more prior thereto. A date for termination of these inactive cases shall be set forth each year on the Court Calendar.

This rule shall become effective thirty (30) days after publication in the *Pennsylvania Bulletin* and shall apply to all civil proceedings pending at that time.

It is further ordered and directed that, in accordance with Pa.R.C.P. 239, seven (7) certified copies of this rule shall be filed with the Administrative Office of Pennsylvania Courts; two (2) certified copies shall be forwarded to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*; one (1) certified copy shall be filed with the Civil Procedural Rules Committee; and one (1) certified copy shall be filed with the Domestic Relations Rules Committee.

By the Court

GORDON R. MILLER,
President Judge

[Pa.B. Doc. No. 96-2008. Filed for public inspection November 29, 1996, 9:00 a.m.]

**COURT OF JUDICIAL
DISCIPLINE**

Court Sessions; Doc. No. 1 JD 94

Order

And Now, this 12th day of November 1996, it is hereby *Ordered* that the sessions of the Court of Judicial Discipline shall be held in the year 1997 as follows:

January 21—24

March 18—21

May 20—23

September 16—19

November 18—21

By the Court

JOSEPH F. MCCLOSKEY,
President Judge

[Pa.B. Doc. No. 96-2009. Filed for public inspection November 29, 1996, 9:00 a.m.]

**DISCIPLINARY BOARD OF
THE SUPREME COURT****Notice of Disbarment**

Notice is hereby given that A. George Glasco, a/k/a Alphonz George Glasco having been disbarred from the practice of law in the State of California, the Supreme Court of Pennsylvania issued an Order dated November 13, 1996 disbaring A. George Glasco, a/k/a Alphonz

George Glasco from the practice of law in this Commonwealth, to be effective December 13, 1996.

ELAINE M. BIXLER,
Secretary
The Disciplinary Board of the
Supreme Court of Pennsylvania

[Pa.B. Doc. No. 96-2010. Filed for public inspection November 29, 1996. 9:00 a.m.]
