

IN THE COURT OF COMMON PLEAS, BEDFORD COUNTY, PENNSYLVANIA

In RE: BEDFORD COUNTY COURT : No. AD 5 for 2016
FACILITY FIREARM DIRECTIVE :

ADMINISTRATIVE ORDER OF COURT

AND NOW, this 5th day of December, 2016, the Order of Court is as follows:

The Court adopts the attached Bedford County Court Facility Firearm Directive as an Order of this Court.

By the Court:

Thomas S. Ling P.J.

CAROL FETTER
PROthonARY/CLERK OF COURT
CLERK OF COMMONS COURT

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BEDFORD COUNTY
COURT FACILITY FIREARM DIRECTIVE

General Policy Overview:

1. Recognizing the potential for physical danger while working in the Courtroom and related areas and dealing with individuals in extremely stressful situations, the Bedford County Court of Common Pleas pursuant to state law recognizes and approves the carrying of firearms by certain law enforcement officers and court officials during the performance of their duties, for defensive purposes and where appropriate to support the Sheriff's Office in maintaining Courtroom security.

2. Pursuant to state law the following persons are not prohibited from possessing firearms in the Bedford County Court facilities during the performance of their official duties: judges, prosecutors, support hearing officers, bailiffs, federal, state, and local law enforcement officers. The Court hereby approves the possession of firearms in the Bedford County Court facilities by these officials and officers subject to the following restrictions regarding court bailiffs.

3. Bailiffs must meet the following requirements for firearms provision in the performance of their duties:
 - a. The person is employed by the County of Bedford in that capacity; and
 - b. The Bailiff continues to follow all safety procedures and qualifications and requirements described in the below listed section. All of these below listed provisions apply only to Bailiffs and not the other officers listed in paragraph two above.

The President Judge retains the sole right to authorize or withdraw a Bailiff's authorization to carry a firearm while engaged in departmental duties.

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Legal Background:

(Title 18 Section § 913) provides that “the lawful performance of official duties by a court official” exempts that official from the prohibition on possession of a firearm in a court facility.

Deadly Force:

Deadly Force is defined in the Pennsylvania Crimes Code, 18 P.S. Section 501 as, “Force which, under the circumstances in which it is used, is readily capable of causing death or serious bodily injury.”

1. The use of deadly force by Bailiffs shall be strictly limited to defensive situations; and those situations where they act in support of Sheriff Deputies;
2. A Bailiff may use deadly force only to defend himself/herself or another person from what the Bailiff perceives as an immediate threat of death or serious bodily injury;
3. A Bailiff shall exhaust every means available to disengage safely, or by every other reasonable means of defense of themselves or others from death or serious bodily injury, before the use of deadly force;
4. When the use of deadly force is justified, Bailiffs 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 the innocent, Bailiffs should shoot initially at “center body mass”;
5. Firearms shall not be drawn or displayed routinely. In cases where the Bailiff has reasonable suspicion that a person is carrying a deadly weapon in a court facility it should be discussed with the on-duty Deputy regarding the approach to the person. If exigent circumstances exist that cause a Bailiff to draw his/her firearm during a confrontation he/she must explain in writing to the President Judge the necessity of drawing the firearm due to a specified or perceived threat; and

6. Bailiffs shall not utilize deadly force in an offensive posture to affect the apprehension of those persons who commit violations of court rules who do not present the threat of death or serious bodily injury. Nothing contained in this paragraph shall preclude the use of deadly force for self-defense, when warranted.

Serious Bodily Injury:

The legal definition of serious bodily injury is defined in the Pennsylvania Crimes Code, 18 P.S. section 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."

Verbal Warning:

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

Safety:

The safe handling of a firearm is of paramount concern. This involves the effort of individual staff and court.

When in the office, firearms are to be worn on the individual or locked in a secure area. Firearms are never to be left unattended on a desk, chair, or table, or in a box, bag, or purse.

Bailiffs found to be careless or negligent in the handling of a firearm will have their authorization to carry a firearm revoked. All decisions regarding same will be made by the President Judge and will be final.

All individuals will safely handle any firearms as though they are loaded. Firearms will be handled with muzzles pointed in a safe direction without fingers on the trigger.

Care, Cleaning, and Inspection:

Bailiffs are responsible for the care and cleaning of the firearm and for proper use of safety equipment. If any defects are noted or repairs are needed, the individual should immediately take steps toward the repair of said firearm.

Firearms will be cleaned and lubricated when in duty service.

Each officer will read the firearm manual issued by the manufacturer and comply with instruction toward care and maintenance.

Firearms will be inspected by their owner on a periodic basis on at least an annual basis.

Training:

Each Bailiff will have the option whether to carry a firearm or not.

Any bailiff choosing to attempt to train, certify, and qualify must:

1. Notify the President Judge that he would like to carry a firearm in performance of his duty; and
2. Qualify annually through the Bedford County Sheriff's Office or other approved agency, including under the Federal Retired Law Enforcement Safety Act.

It shall be the duty of all Bailiffs to report to the President Judge any physical and/or emotional conditions, including physical and/or emotional impairment, drug or alcohol abuse, use of impairment creating prescribed medication, assessment or treatment with a psychologist or psychiatrist and any/all pharmacological conditions causing emotional or physical impairment of Bailiffs authorized to carry a firearm within the office.

Medical documentation may be requested by the President Judge or may be provided by the Bailiff to evaluate the condition.

Impairment will be defined as a condition which can affect judgment, reaction time, motor skills, and visual acuity thereby affecting the ability to handle a firearm with safety and proficiency.

Absolutely no firearm shall be carried by any Bailiff while on duty or on-call time when the Bailiff has consumed alcohol or is under medical, physical, or psychological impairment from any drug.

Under any of the above conditions impairing a Bailiff's ability to act, react, or think clearly, the President Judge may hear the matter or may suspend a Bailiff's authorization to carry a firearm for office business, and in either case, documentation will be prepared by the President Judge to support his/her decision.

Requalification:

In order to maintain the authorization to carry a firearm the Bailiff must re-qualify with his/her firearm not less than once per year. The re-qualifications are mandatory.

A Bailiff who provides medical documentation of extenuating circumstances may be granted a leave from a scheduled requalification attempt by the President Judge. If approved, the requalification will be scheduled as quickly as possible.

Authorized Firearms, Ammunition, and Gear:

The President Judge of Common Pleas Court approves for Bailiffs use on duty firearms ranging from .380 to 45 ACP.

Upon certification, Bailiffs are permitted to carry firearms that are either county owned or privately owned in the correct caliber range.

If the Bailiff is qualified with a second firearm, the carrying of a second or “back-up” firearm is not prohibited.

The Bailiff will be authorized to carry the approved firearm providing the firearm passes an initial visual performance inspection by the Sheriff’s Office and providing said firearm passes on-going visual and performance inspections according to policy.

The Bailiffs will provide all ammunition. Under no circumstances will Bailiffs be permitted to use, on duty, any reloads or the like. Bailiffs will be reimbursed for ammunition purchased for duty purposes.

Appropriate handgun holsters will be utilized by the Bailiffs and will be approved by the President Judge. Cross-draw and ankle, holsters are permitted.

Firearms shall be carried concealed. When armed the Bailiffs badge must be displayed whether on the Bailiff’s hip or lanyard style.

Special Circumstances:

In the case of theft, loss, allegations or misuse, or the discharge of a firearm, a prompt inquiry will be initiated by the President Judge and the Sheriff.

The President Judge is responsible for looking into any allegation of misuse or mishandling of a firearm and has the sole right to withdraw a Bailiff’s authorization to carry a firearm while engaged in office duties.

A “Firearm Incident Report Form” will be promptly completed, within 24 hours, by a Bailiff who has drawn and/or pointed, armed, discharged their firearm in the course of his duties. (attached)

Lost/Stolen Firearms:

All lost/stolen firearms will be immediately reported to the local and state police providing the firearm serial number, details of the occurrence, person discovering the theft, etc. An immediate verbal and then written report, within 24 hours, will also be made to the President Judge.

The President Judge will decide if further inquiry is necessary.

Discharge of Firearm:

Any discharge or firing of a firearm, during working hours, other than during approved training must be reported verbally immediately to the President Judge by the Bailiff firing the firearm providing the exact location and time of the incident, names, and addresses of any witnesses, reasons the firearm was fired, names of investigating police officers, and any other information that may be necessary in understanding and investigating the incident. The failure to promptly report the discharge of a firearm may result in disciplinary/corrective action. A report will be submitted on the "Firearm Incident Report Form" and forwarded to the President Judge.

In the event death or injury results, the jurisdictional police must be immediately notified by the person discharging the firearm, or another bailiff acting under the direction of the Bailiff involved.

The President Judge will contact the District Attorney who will decide as to what course of action is necessary in investigating the incident.

The involved Bailiff shall submit a verbal report to the President Judge immediately. A final report shall be prepared and submitted within 72 hours.

Incidents or Allegations:

An incident is defined as, but not limited to:

1. Loss or theft of a firearm;
2. Allegations of misuse of a firearm;
3. Discharge of a firearm other than during approved training; and
4. The unsafe displaying of a firearm during performance of duty not while in preparation to defend oneself or another.

It is the responsibility of the individual carrying the firearm to report immediately to the President Judge any incidents or situations that may result in allegations being made and written complaints being filed with the President Judge regarding the use/display of a firearm. Other staff who observes the unusual situation involving a firearm should submit a written and verbal report to the President Judge. The "Firearm Incident Report Form" shall be used.

Reclamation of Firearm Authorization:

The President Judge may withdraw authorization to carry a firearm upon the following circumstances:

1. From a Bailiff involved in a serious firearm incident until the investigation is complete;
2. If a Bailiff is observed in chronic unsafe behavior with a firearm by fellow employees;
3. When a Bailiff fails to obtain a passing score on initial firearms qualification or on firearms requalification; and
4. Upon observation and documentation by the President Judge of:
 - a. Serious physical impairment;
 - b. Drug/alcohol or emotionally related problems; and/or

- c. Receipt of a report from a psychiatrist or doctor stating the employee is unable to perform his/her duties.

The President Judge shall suspend the authorization to carry a firearm should a need be presented and/or in the event of the previously cited conditions exist.

Other sanction recommendations may be considered by the President Judge based on the findings of the law enforcement body who may be investigating the incident depending on the degree of negligence or malpractice.

If firearms authorization has been suspended and/or revoked, authorization to carry will be returned upon the discretion of the President Judge.

Provisions:

The President Judge will facilitate a review of this policy at least once annually. Each Bailiff will be provided an updated copy of said policy. Each officer will be required to sign an acknowledgement of receipt and understanding of this policy.

Date: December 5, 2016

Thomas S. Ling P.J.
President Judge Thomas S. Ling

FIREARM INCIDENT REPORT FORM

Name of person completing this form: _____

Name of Bailiff involved in the incident: _____

Date, time, and location of incident: _____

Was this a drawing, aiming, pointing, discharge of firearm? (circle all that apply)

Bailiff's weapon that was involved: (serial number, caliber, owned by): _____

Names, addresses, and phone numbers of others present: _____

Injuries? YES NO If yes, be specific with details: _____

Narrative of the incident in detail: _____

Lined area for notes or details.

Date

Time

Signature of Bailiff