

Harry Geiger

PRESENTATION TO THE
HOUSE JUDICIARY COMMITTEE

AUGUST 17, 1993

I am not going to get involved in the history of the Sheriffs Office; either you have already heard it or some of my colleagues will touch upon it. Therefore, I will make an assumption that some representatives have reservations on the cost of having favorable legislation for the Sheriff's Office. My office does quite well with finances. I use the sheriffs' fee bill, Title 42, Sections: 21111 through 21119 to the fullest. I can safely say, by availing myself of Title 42, that on some days the deputy's salary was paid. No expense to the county.

Funding for deputy sheriff's training is through the two dollar surcharge. There are bills in the house to change the Sheriffs Fee Bill and with these bills there are companion bills to increase the surcharge. Any increase granted would sustain the additional training that may be needed. Then again, if the Municipal Police Training Board would accept deputy sheriff's, the extra funding would not be necessary.

The total monies collected by my office in 1992 was \$ 314,353.39, of which \$243,823.99 was from poundage (real estate) My budget for 1992 was \$443,046.00. Monies collected in 1993, from JAN to JUN was \$181,004.52, of that \$151,202.28 was from poundage (real estate). My budget for 1993 is \$456,528.00.

DUTIES AND TRAINING PERFORMED BY THE
PIKE COUNTY SHERIFFS' OFFICE

I. Training/Schooling

- a) Deputy Sheriff's must attend Deputy Sheriffs Basic Training- Act 2(1984); - 160 hours.
- b) Mandatory continuing education - every other year. Training is given by Temple University School of Criminal Justices.
- c) Attend a multitude of seminars, schools, and training in various law enforcement programs. Some of these programs are: (1) US Marshall School, Glynco, Ga. "Court Room Security"; (2) Interpersonal Communication Skills; (3) PR-24; (4) Advanced Drug Law Enforcement School(DEA); (5)(Hazardous Device School(Bomb Technician); Police Firearm Instructor School, training in defensive tactics by our own certified instructors.

II. Duties of a Deputy

- a) Bomb Technician - responds to calls when requested by the PSP - and other state, local and federal enforcement agencies.
- b) Drug Task Force - Member of the county drug task force. Assists in arrests, have done undercover work.
- c) Breathalyzer - Perform DUI tests on breathalyzer 3000.
- d) Video operation - Video tapes DUI suspects.
- e) Deputies do the ELECTRONIC MONITORING for Probationary Department. Placing on person electronic devices and

monitor.

- f) Deputies are on call 24 hours a day.
- g) Execute bench warrants for the court of common plea.
- h) Execute warrants for probation, assist on pick-up orders.
- i) Serve Protection from abuse orders from Court of Common Pleas and/or Magistrates office.
- j) Assist PSP and municipal police with the transport of Mental Health Patients.
- (k) Project D.A.R.E. - Pike County Sheriffs' Office instituted the program in January 1990. We have gone from one deputy to three deputies teaching the program in schools. We are handling two of three school districts. The criteria for being a D.A.R.E. officer is a minimum of two years in law-enforcement field duty. My senior sergeant is a mentor on the state training commission for Pennsylvania Commission on Crime and Delinquency. As of this day we have reached out to 9000 students.
- (l) TRIAD/SALT - Seniors and Law-Forcement Together - This year I have begun to co-ordinate with the Pennsylvania State Police and the three municipal police departments with-in the county to implement the program. This program deals with assisting senior citizens.
- (m) An arm of the court:
 - + providing courtroom security for Judge, defendants, juries and witnesses.

+service of original process in a civil action, to include: process in other than civil actions.

+Replevin (Complaint, writ of seizure, impoundment)

+Proceedings in Quasi in REM (writ of attachment)

+Enforcement of judgement (writ of execution, writ of Possession)

+Evictions (order of possession)

+Service of subpoenas.

++Court Order from Pike County Court of Common Pleas [attached] "Sheriff of Pike is directed to make service of all process emanation from the Magisterial Districts"

++Court Order from Pike County Court of Common Pleas [attached] "Sheriff of Pike is directed to do all juvenile transports].

n) Crimes Code Section 4110: Defrauding Secured Creditors. Have filed criminal complaints based on this section. Sheriffs come by these circumstances frequently.

o) Prisoner transport: In July 1989 the Pike County Jail was closed because of an inadequate physical plant. The road mileage incurred just for prisoner transport is in excess of 450,000 miles.

In 1992 the mileage was 160,000 miles; 1993 ending June 30, the mileage is 55, 982. We have housed inmates as far west as Cambria County and south to Chester County

III.

Conclusion:

Deputies of Pike County are trained in the use of force,

search and seizure, and criminal procedures. My deputies' have a noteworthy reputation to the extent that our assistance is requested by the Pennsylvania State Police and the Municipal Police Departments.

Some years ago, the local police departments attempted to receive a NCIC/CLEAN computer for their use. These departments did not meet the Pennsylvania State Police criteria and were denied. I interceded, and my office was able to receive the NCIC machine, (signed over to me) and it is now situated in the Pike County Communication Center.

This indicates that someone out there believes that somewhere with-in the law enforcement structure, sheriff's do have police power.

I am attaching a brief of a case heard in Superior Court; Commonwealth v. Lyons, Superior Court of Pennsylvania (3/13/89) 555 A.2d.920. This case reinforces that Sheriffs do have arrest powers. Another case, Commonwealth v. Delatore; Motion to dismiss. C.P. of Washington County, no 1197 of 1990. Jan. 28, 1991; provides further proof of the sheriffs arrest power.

In closing, I have six deputies that are ACT 120 certified. All are former police officers. The Municipal Police Training Board will not allow them to participate in "Continuing Municipal Police Training Program" because they are no longer employed by a police

department. The district attorney has deputized three as county detectives so they may continue with their education.

I ask you to please take the sheriff's out of limbo. We do not want to take away any one persons livelihood. We want to continue augmenting and assisting other law enforcement agencies. We would like to accomplish this without feeling we are out in left field, standing there naked. "Thank you".

The prothonotary is directed to provide notice of the entry of this opinion and order as required by law.

Commonwealth v. Delatore

Arrests — Power to make — Sheriff and sheriff's deputies — Breach of peace committed in deputies' presence in public area — Sheriff's deputies have power to make arrest

A sheriff and sheriff's deputies have the power to arrest an individual who is committing a breach of the peace in their presence in a public area.

Motion to dismiss, C.P. of Washington County, no. 1197 of 1990.

Dennis M. Makel, assistant district attorney, for the Commonwealth.

George K. Hanna, for defendant.

BELL, J., January 28, 1991.—This case is before the court on defendant's motion to dismiss the charges against him. More specifically, defendant is requesting the court to dismiss the charges alleging that neither the sheriff nor his deputies possess general police powers or legal authority to make an arrest.

Upon consideration of the transcript of the preliminary hearing in the above captioned case, the briefs and arguments of counsel, the court makes the following findings of fact:

The newly constructed Star Lake Amphitheater is located in the rural area of Hanover Township, Washington County, Pennsylvania. Star Lake presents shows and concerts for the general public.

The attorneys for the Commonwealth and the defense stipulated as to the facts and the matters contained in the transcript of the preliminary hearing held on July 24, 1990.

and has a seating capacity of approximately 25,000. Hanover Township has a police force of five part-time police officers.

Star Lake employed full-time security personnel and also entered into an agreement with the Washington County Sheriff's Department that the sheriff and his deputies would provide additional personnel to handle traffic, crowd control, security, etc. Washington County provided a sheriff's vehicle or vehicles to assist in the above.

A letter was written on June 4, 1990, by Chief Deputy Sheriff Ferdal Littleton to management of Star Lake outlining the terms of the sheriff's/deputies' duties and financial arrangements. (See exh. 1.) Basically, the letter states the Washington County Sheriff would provide security and traffic control to Star Lake at \$10 per hour per man; workmen's compensation and general liability insurance on all persons working concert events would be the responsibility of Star Lake. Payment of wages for deputies assigned to Star Lake shall be paid by Star Lake directly to them.

On July 4, 1990, Star Lake conducted a concert show and Washington County deputy sheriffs were on duty as outlined above. Washington County deputy sheriffs Carl Pitzarella and David Richards were in the security office/trailer located on the premises of Star Lake. The deputies heard screaming emanating from outside the trailer but in the public area of the amphitheater. Deputy Pitzarella stepped outside the doorway and observed defendant Ronald Delatore screaming loudly and using boisterous, vulgar language. Deputy Pitzarella told defendant "to settle down." Defendant ignored him and Pitzarella again requested defendant to calm down; however, defendant continued to be loud boisterous and used vulgar language in the public area. Deputy Pitzarella then notified defendant he

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TO

YK CO

MARKEL SHERIFF

FROM

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was under arrest for disorderly conduct and told him to go inside the security office, where the deputy would issue a citation. Defendant settled down and consented. Once inside the security office, defendant let out a scream and punched Deputy Pitzarella in the face, knocking him down.

Pitzarella suffered a broken nose and an injury to his eye. The above incident was witnessed by Deputy Richards who, along with other security personnel present, subdued defendant. Deputy Richards then arrested defendant and filed charges of aggravated assault, simple assault, resisting arrest and disorderly conduct.

We also note that deputies Pitzarella and Richards were dressed in Washington County Deputy Sheriff uniforms, exhibiting badges and side arms, all clear indicia of their official position.

Defendant argues that the deputies had neither general nor specific statutory authority to make an arrest in the case at bar. Further, defendant alleges that the Washington County Sheriff's Department illegally contracted with Star Lake Amphitheater to provide security services; (i.e. they were committing a criminal act by their employment at Star Lake in violation of 16 P.S. §1210 et. seq.). Section 1210 states:

"No sheriff, deputy sheriff . . . shall perform directly or indirectly, any official services or official duties for any person, association, or cooperation, or receive directly or indirectly any compensation . . . from any . . . corporation during the period of their official services."

First, we address the issue of the sheriff's "arrest" authority. Our research reveals no statutory or appellate case law directly on point as to the general arrest powers of the sheriffs and their deputies in the various counties of the Commonwealth of Pennsylvania.

Consequently, we are left with the historical background of the sheriff and his function at common law.

Over 900 years ago the office of sheriff was created in England with its main function or purpose to see that the king's laws were strictly enforced and adhered to by his subjects and to act as the principal conservators of the peace within their bailiwicks.

Granted, over the years and centuries, the duties of the sheriff changed but the office continued to maintain considerable authority as the enforcement arm of the English courts.

In the early 1600s when English immigrants arrived and settled in Pennsylvania they brought with them the English concept of the office of sheriff which included all those duties which English common law mandated and, more particularly, keeping the peace in the counties (bailiwicks) they served.

In Pennsylvania, the office of sheriff was constitutionally established in 1776 with the adoption of Pennsylvania's first Constitution but, unfortunately, this document did not specify or provide a description of the duties or powers of the office. Our present Constitution, which was adopted in 1968, again failed to specify with particularity the duties and powers of the sheriffs in the Commonwealth.

Our research failed to uncover any statutory authority granting or denying the sheriff the power to arrest. Title 16 P.S. §1216 states that a sheriff or his deputies "shall perform all those duties authorized or imposed on them by statute." Further, we find in Title 42 Pa.C.S. §2921 that "the sheriff, either personally or by his deputy, shall serve, process and execute orders directed to him pursuant to law."

Turning to case law in Pennsylvania, we find the sheriff described by the courts in various ways including "the principal conservator of the peace

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within his bailiwick," *Commonwealth v. Vandyke*, 57 Pa. 34, 39 (1868); "keeper of the peace . . . in the county," *In Charge to Grand Jury of Venango County*, 23 Pa. C. 667 (1900).

In 1974, we find the Commonwealth Court in *Veneri v. County of Allegheny*, 12 Pa. Commw. 517, 316 A.2d 120 (1974), quoting, with approval, *Vandyke, supra*. "[The] sheriff in this Commonwealth has been described as 'the principal conservator of the peace within his bailiwick.'" Also, we see in *Miller v. Klunk*, 15 D.&C. 3d 599, 601-02 (1980), "sheriffs, within the scope of their respective jurisdictions, are given power, and have the duty, to preserve the peace . . ."

Based upon the above, the court concludes that the office of sheriff in the Commonwealth of Pennsylvania serves two purposes: One, to serve as an arm of the courts, i.e., serving process, enforcing court orders, escorting prisoners, providing protection and security to the courts and its personnel; two, the sheriffs are the keeper or conservator of the public peace and order in their respective bailiwicks or counties.

It is obvious that in order to carry out the duty of maintaining the public peace and order, it is necessary that the sheriff have arrest powers to take into custody those individuals who disrupt the public peace and order in his presence. As pointed out in the Armstrong County case of *Commonwealth v. Leet*, 6 D.&C. 4th 97, 98 (1988):

"[T]here can be little doubt that the sheriff and his deputies retain their historic powers as peace officers; that is, the power to stop and/or arrest where breaches of the public peace or public order occur in the presence of such officers. . ."

With respect to the case now before this court, we find for the aforementioned reasons, that the Washington County sheriff's deputies had the legal au-

thority to arrest and charge defendant Delatore. Defendant, by his conduct, was committing a breach of the peace in the presence of the deputies in a public area (Star Lake), i.e., being loud, boisterous, and using vulgar language, and then assaulting Deputy Pitzarella causing serious injury to his person which generated the felony charge of aggravated assault.

It would be illogical to rule that a sheriff or his deputies could witness a breach of the public peace and be a victim of a criminal act and not have the authority to arrest for such conduct in order to preserve the peace. A logical analysis would conclude that it would be impossible for a sheriff to perform his present day functions in situations as the facts of the case reveal without any enforcement authority.

This court, by its decision today, does not decide the broader issue of a sheriff's general police powers or arrest authority with respect to motor vehicle violations, investigations of crimes, etc.

This ruling concerns only the sheriff's authority to arrest for breach of the public peace and order committed in his or his deputies' presence.

Defendant's second argument that the sheriff's office was in violation of 16 P.S. §1210 by their employment at Star Lake is simply irrelevant to the case at bar. Whether or not the sheriff department's contractual arrangement at Star Lake was in compliance with section 1210 has no bearing on defendant's arrest for alleged commission of breaches of the public peace.

The sheriff's contractual arrangement with Star Lake, its legality, its compliance with pertinent statutory authority, etc, is a separate and distinct matter from the issue at bar.

Even if we were to assume that the sheriff's department's contract to provide security services

at Star Lake is in violation of section 1210, the sheriff or his deputies were on the scene and once on the scene, had certain inherent powers as outlined above. It is the court's opinion that regardless of the genesis of the deputies' presence at Star Lake, the sheriff and his deputies are on "call/duty" to perform their services of keeping the public peace 24 hours a day, seven days a week in their respective counties.

For the aforesaid reasons, defendant's motion to dismiss is denied.

ORDER

And now, January 28, 1991, after a hearing and upon consideration of the testimony, evidence and arguments of counsel, defendant's motion to dismiss is denied.

John J. Curry and Son v. Harleysville Mutual Insurance Co.

Insurance — Interpretation of policy — Insurer's duty to defend or indemnify — Work-product exclusion — Ambiguity not created by grant of coverage for express or implied warranties of good workmanship — Insurer not obligated to defend or indemnify

An exclusion from coverage in an insurance policy for insured's work product is not rendered ambiguous, obligating insurer to indemnify or defend insured, by another provision of the policy that grants coverage for express or implied warranties of good workmanship.

Declaratory judgment action, C.P. of Carbon County, no. 88-0936.

William G. Schwab, for plaintiff,
William H. Bayer, for defendant Harleysville Mutual Insurance Co.

2025 RELEASE UNDER E.O. 14176

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any person in custody. If each officer who has had contact with the arrested faithfully completes this form and replaces it with an updated form as events change and necessitate other blocks to be marked, then any officer who comes along later and consults this form, will know the status of the arrested and will know just what he can and cannot do as far as approaching the person to give him the warnings and try to question him about an unrelated charge. In other words, police personnel will not be in the dark as to what the status of the person is.

I hope that the above has been of some help. Call or write if you have any questions about this answer or you wish me to engage in research on different questions.

Arrest, Deputy Sheriffs Have Authority Under the Municipal Police Jurisdiction Act To Make Arrests Within and Outside Their Own County When Their Assistance Is Requested By Other Police Officers

Commonwealth v. Lyons
Superior Court of Pennsylvania (3/13/89)
555 A.2d 920

Facts

A probation officer asked deputy sheriffs to assist him in arresting defendant for parole violations. At the request of a probation officer, the deputy sheriffs went to defendant's house without any probation officer present and without any warrant or court order and arrested him. He was charged with and convicted of resisting arrest.

On appeal, defendant claims that a probation officer has no authority to request the assistance of a local law enforcement officer to make a warrantless arrest of a parole violator. Also, he claims that a local law enforcement officer has no authority to make such an arrest without a court order and without the probation officer being present.

Issue

1. Whether the arrest of defendant was lawful without a court order?
2. Whether deputy sheriffs have authority to assist a probation officer in making an arrest?

Decision

Yes to both issues. Affirmed.

Reasoning

A county probation officer is not required to get a court order or a warrant to arrest a parole violator. Deputy sheriffs have statutory authority to assist parole/probation officers under 16 Pa.S.A. Section 1216, which provides that sheriff deputies shall perform all duties imposed on them by statute. One such duty is to maintain the peace and dignity of this Commonwealth. And, 42 Pa.C.S.A. Section 8952 provides that all duly employed municipal police officers have authority to enforce the laws of this Commonwealth anywhere within his primary jurisdiction as to any event that requires action on the part of the police to maintain the peace and dignity of this Commonwealth.

This statutory authority includes authority to aid parole/probation officers. This authority of a deputy sheriff is clearly stated in section 8953 which states that any duly employed municipal police officer who is beyond his primary jurisdiction has authority to enforce the laws of this Commonwealth the same as he can in his own primary jurisdiction when he has requested to assist any law enforcement officer or has probable cause to believe the other officer is in need of help. Deputy sheriffs have express authority to come to the aid of county parole/probation officers outside their own jurisdiction. (Court's emphasis.) The broad grant of authority in Section 8952 includes such authority within their own jurisdiction. (Court's emphasis.)

In this case, the assistance given by the deputy sheriffs was within the authority granted by the legislature.

Short Brief

(Note: Although this case has no binding effect in Pennsylvania since it was decided by a New Jersey Court, it may have persuasive influence on Pennsylvania courts.)

State v. Carter
Superior Court of New Jersey (8/4/89)
562 A.2d 1196

A police officer stopped defendant's car for tailgating. As the officer approached, he saw a passenger bend over as to reach under the seat. The officer thought the person could be concealing a weapon under the seat. The driver and three passengers were ordered out of the car and patted down for weapons with negative results. The officers were concerned that if a summons was issued and the occupants were allowed to enter the car, they would have access to what was under the seat. While another officer watched the car's occupants, one officer, fearing for his safety, entered the passenger area to look for weapons. Looking under the seat, he found cocaine. After arresting the occupants, he searched the rest of the passenger area and found more evidence.

On appeal from a lower court suppression of the evidence, the Superior Court reversed and upheld the warrantless search, ruling that the search without a warrant and without probable cause, but based on reasonable suspicion that the car contained a weapon, was lawful under Michigan v. Long, 103 S.Ct. 3469 and in the

§4109. Rigging Publicly Exhibited Contest.

(a) Offense defined.—A person commits a misdemeanor of the first degree if, with intent to prevent a publicly exhibited contest from being conducted in accordance with the rules and usages purporting to govern it, he:

(1) confers or offers or agrees to confer any benefit upon, or threatens any injury to a participant, official or other person associated with the contest or exhibition; or

(2) tampers with any person, animal or thing.

(b) Soliciting or accepting benefit for rigging.—A person commits a misdemeanor of the first degree if he knowingly solicits, accepts or agrees to accept any benefit the giving of which would be criminal under subsection (a) of this section.

(c) Participation in rigged contest.—A person commits a misdemeanor of the first degree if he knowingly engages in, sponsors, produces, judges, or otherwise participates in a publicly exhibited contest knowing that the contest is not being conducted in compliance with the rules and usages purporting to govern it, by reason of conduct which would be criminal under this section.

§4110. Defrauding Secured Creditors.

A person commits a misdemeanor of the second degree if he destroys, removes, conceals, encumbers, transfers or otherwise deals with property subject to a security interest or after levy has been made thereon with intent to hinder enforcement of such interest.

§4111. Fraud in Insolvency.

A person commits a misdemeanor of the second degree if, knowing that proceedings have been or are about to be instituted for the appointment of a receiver or other person entitled to administer property for the benefit of creditors, or that any other composition or liquidation for the benefit of creditors has been or is about to be made, he:

(1) destroys, removes, conceals, encumbers, transfers, or otherwise deals with any property with intent to defeat or obstruct the claim of any creditor, or otherwise to obstruct the operation of any law relating to administration of property for the benefit of creditors;

(2) knowingly falsifies any writing or record relating to the property; or

(3) knowingly misrepresents or refuses to disclose to a receiver or other person entitled to administer property for the benefit of creditors, the existence, amount or location of the property, or any other information which the actor could be legally required to furnish in relation to such administration.

IN THE COURT OF COMMON PLEAS OF PIKE COUNTY, PENNSYLVANIA

JUVENILE

IN RE: JUVENILE
TRANSPORTS

: NO. 11-1992-
: 15-1442-
: ADMINISTRATIVE ORDER

And now this 3rd day of March, 1992 the Sheriff of Pike County is directed to transport juvenile delinquents to and from various detention centers, treatment facilities, medical facilities, and other places of detention for the Court as may be necessitated from time to time conveyed through the Pike County Probation Office.

BY THE COURT:

[Handwritten Signature]
P.J.

cc: Probation Office
Sheriff's Office
Court Administrator

ENTERED
PIKE COUNTY, PA

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OFFICE OF RECORDER
AND PROSECUTOR

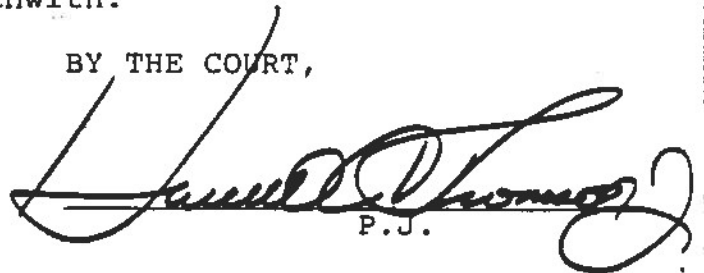
IN THE COURT OF COMMON PLEAS OF PIKE COUNTY, PENNSYLVANIA

IN RE: SERVICE OF PROCESS IN : NO 386 1989 Miscellaneous
THE SIXTIETH JUDICIAL : Docket
DISTRICT :

ORDER

AND NOW, this 1st day of May, 1989, the Sheriff of Pike County is Directed to make service of all process emanating from the Magisterial Districts in the Sixtieth Judicial District of Pennsylvania and the District Justices of this Judicial District are Directed to forward to the Sheriff of Pike County all process to be served forthwith.

BY THE COURT,



P.J.

cc: Sheriff
Carolyn H. Purdue
Gudrun K. Quinn
William Sanquilly
Court Administrator

OFFICE OF RECORDER
MAY 14 05 PM '89
PIKE COUNTY, PA.