Personal Communication Devices

701.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for the use of mobile telephones and communication devices, whether issued or funded by the Department or personally-owned, while on-duty or when used for authorized work-related purposes.

This policy generically refers to all such devices as Personal Communication Devices (PCDs) but is intended to include all mobile telephones, personal digital assistants (PDAs), wireless-capable tablets, and similar wireless two-way communications and/or portable internet-access devices. PCD use includes but is not limited to placing and receiving calls, text messaging, blogging and micro blogging, emailing, using video or camera features, playing games, and accessing sites or services on the internet.

701.2 POLICY

The Fargo Police Department allows members to utilize department-issued or funded PCDs and to possess personally-owned PCDs in the workplace, subject to certain limitations. Any PCD used while on- or off-duty for business-related purposes, or reasonably associated with work-related misconduct, will be subject to monitoring and inspection consistent with applicable law and this policy.

Additionally, the use of a PCD either on-duty or after duty hours for business-related purposes, or reasonably associated with work-related misconduct, may subject the member and the member's PCD records to civil or criminal discovery or disclosure under applicable open records laws.

Members who have questions regarding the application of this policy or the guidelines contained herein are encouraged to seek clarification from supervisory staff.

701.3 PRIVACY EXPECTATION

Members forfeit any expectation of privacy with regard to any communication accessed, transmitted, received, or reviewed on any PCD issued or funded by the Department and shall have no expectation of privacy in their location should the device be equipped with location-detection capabilities. This includes records of all keystrokes or web-browsing history made on the PCD. The fact that access to a database, service, or website requires a username or password will not create an expectation of privacy if it is accessed through department PCDs or networks. See the Information Technology Use Policy (321) for additional guidance.

Members have no expectation of privacy regarding any communications while using a personally-owned PCD for department-related business or when the use reasonably implicates work-related misconduct.

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701.4 DEPARTMENT-ISSUED PCD

Depending on a member's assignment and the needs of the position, the Department may issue or fund a PCD for the member's use to facilitate on-duty performance. Department-issued or funded PCDs should not be used for personal business either on- or off-duty unless authorized by the member's shift or unit commander or in an emergency situation. Such devices and the associated telephone number, if any, shall remain the sole property of the Department and shall be subject to inspection or monitoring (including all related records and content) at any time without notice and without cause.

Additionally, member's issued a department PCD shall:

(a) Immediately notify a supervisor if a department-issued PCD is lost or stolen.

(b) Ensure the PCD is backed up and software updates are done on a regular basis.

(c) Not disable the location settings or remove or tamper with device management settings.

(d) Safeguard PCD's appropriately to avoid damage or theft.

Replacement cases and/or screen protectors are available through the Department's Quartermaster.

701.5 PERSONALLY OWNED PCD

Members may carry a personally-owned PCD while on-duty with the approval of the member's shift or unit commander, subject to the following conditions and limitations:

(a) If the PCD is carried on-duty, members shall provide the Department with the telephone number of the device so it can be added to the personnel roster information maintained by the Office of the Chief.

(b) Permission to carry a personally-owned PCD may be revoked if it is used contrary to provisions of this policy.

(c) The Department accepts no responsibility for loss of or damage to a personally-owned PCD.

(d) The PCD and any associated services shall be purchased, used, and maintained solely at the member's expense.

(e) The device should not be used for work-related purposes except in exigent circumstances (e.g., unavailability of radio communications) or as otherwise authorized by department policy.

(f) Use of a personally-owned PCD for work-related business constitutes consent for the Department to access the PCD to inspect and copy the work-related data in order to comply with open records and retention laws, criminal discovery requirements or to investigate a personnel complaint or internal investigation, as well as subjects the PCD to court subpoena for criminal or civil matters.

    1. Searches of a personally-owned PCD by the Department shall be limited to those matters outlined in this policy and relative to the official business of

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the Department or work-related misconduct, and shall require approval of the Professional Standards Division (PSD) commander.

(g) The device should not be utilized to record or disclose any department business-related information, including photographs, video, or the recording or transmittal of any information or material obtained or made accessible as a result of employment or appointment with the Department, without the express authorization of the member's shift or unit commander.

(h) All official department work-related documents, emails, photographs, recordings, and other public records created or received on a member's personally-owned PCD shall be transferred to the Fargo Police Department and deleted from the member's PCD as soon as reasonably practicable but no later than the end of the member's shift.

Except in an emergency situation, member's should not use a personally-owned PCD to conduct department business while off-duty unless they are in an authorized on-call status in conformity with the Compensation policy (1019), and do not have an assigned department PCD. This does not apply to situations in which the Department attempts to contact the member via a personally-owned PCD due to an emergency or other extraordinary event.

701.6 USE OF PCD

The following protocols shall apply to all PCDs that are carried while on-duty or used to conduct department business:

(a) A PCD should be carried in a manner that does not obscures the member's name or other police identifiers on the member's uniform and displays a professional appearance

(b) While on duty, members should prioritize department communications. Personal use of PCD's should be kept to a minimum and not interfere with a member's official duties, compromise safety or impact readiness.

(c) Members may use a PCD to communicate with other personnel in situations where the use of radio communications is either impracticable or not feasible. PCDs should not otherwise be used as a substitute for regular radio communications.

(d) Members are prohibited from taking pictures, audio or video recordings, or making copies of any such picture or recording media unless it is directly related to official department business, memorializing a department award or team event or other similar function. Disclosure of any such information to any third party through any means requires the express authorization of the shift or unit commander.

(e) Members shall refrain from excessive personal social media use while on-duty. Personal use while on authorized breaks or when not interfering with a member's official duties, compromising safety or impacting readiness is permissible.

(f) Using PCDs to harass, threaten, coerce, or otherwise engage in inappropriate conduct with any third party is prohibited. Members are prohibited from releasing any such information that discredits the Department or its member's. Any member having knowledge of such conduct shall promptly notify a supervisor.

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701.7 SUPERVISOR RESPONSIBILITIES

The responsibilities of supervisors include but are not limited to:

(a) Ensuring that members under their supervision are provided appropriate training on the use of PCDs consistent with this policy.

(b) Upon notification of a stolen or lost department PCD, contact the appropriate department member or city information services so that it is immediately tracked.

(c) Monitoring, as practicable, PCD use in the workplace and taking prompt corrective action if a member is observed or reported to be improperly using a PCD.

1. An investigation into improper conduct should be promptly initiated when circumstances warrant.
2. Before conducting any administrative search of a member's personally-owned device, supervisors should consult through the chain of command with the Professional Standards Division commander.

The Chief of Police shall assign a supervisor to oversee the maintenance, distribution, and tracking of department-issued PCD's.

701.8 USE WHILE DRIVING

The use of a PCD while operating a motor vehicle can adversely affect safety, cause unnecessary distractions, and present a negative image to the public. Officers operating emergency vehicles should restrict the use of these devices while driving to matters of an urgent nature and should, where practicable, stop the vehicle at an appropriate location when utilizing the device (N.D.C.C. § 39-08-23(3)).

Except in the case of an emergency, members who are operating non-emergency vehicles shall not use a PCD while driving unless the device is specifically designed and configured to allow hands-free use. Hands-free use should be utilized consistent with this policy relative to department-issued and personally-owned PCDs..

701.9 ISSUANCE AND USE

The Quartermaster is responsible for the issuance, tracking, and procuring of department-issued PCD's.

Members are reminded that PCDs are not secure devices and conversations may be intercepted or overheard. Caution should be exercised while utilizing PCDs to ensure that sensitive information is not inadvertently transmitted. As soon as reasonably possible, members shall conduct sensitive or private communications in areas that restrict the ability of others to hear or record official conversations.

701.10 REVISION DATE 04/01/2025

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