

Firearms

306.1 PURPOSE AND SCOPE

This policy provides guidelines for issuing firearms, the safe and legal carrying of firearms, firearms maintenance, and firearms training.

This policy does not apply to issues related to the use of firearms that are addressed in the Response to Resistance or Officer-Involved Shootings and Deaths policies.

This policy only applies to those members who are authorized to carry firearms.

306.1.1 AUTHORIZATION TO CARRY FIREARMS

Members of this department who meet all state and North Dakota Peace Officer Standards and Training Board (POST) requirements shall have law enforcement privileges to carry firearms and other weapons pursuant to state laws (N.D.C.C. § 62.1-03-01(2)(f); N.D.C.C. § 62.1-04-02; N.D.C.C. § 62.1-05-02(3)).

306.2 POLICY

The Fargo Police Department will equip its members with firearms to address the risks posed to the public and department members by violent and armed persons. The department will ensure firearms are appropriate, in good working order, and relevant training is provided as resources allow.

All sworn police officers, while on official duty, shall carry a department approved weapon and ammunition. The carrying of an off-duty weapon is optional; however, off-duty weapons and ammunition must also be department approved.

306.3 AUTHORIZED FIREARMS, AMMUNITION AND OTHER WEAPONS

Members shall only use firearms that are issued or approved by the department and have been thoroughly inspected by the Training Sergeant or an authorized designee. Except in an emergency or as directed by a supervisor, no firearm shall be carried by a member who has not qualified with that firearm at an authorized department range.

All other weapons not provided by the department, including, but not limited to, edged weapons, chemical or electronic weapons, impact weapons or any weapon prohibited or restricted by law or that is not covered elsewhere by department policy, may not be carried by members in the performance of their official duties without the written authorization of the member's Division Commander. This exclusion does not apply to the carrying of a single folding pocketknife that is not otherwise prohibited by law.

306.3.1 HANDGUNS

The authorized department-issued handgun is the Glock, Model 22, 40 Caliber. The following additional handguns are approved for on-duty use:

- (a) Glock, Model 23, 40 Caliber

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- (b) Glock, Model 27, 40 Caliber
- (c) Smith and Wesson, Shield, 40 Caliber

306.3.2 SHOTGUNS

The authorized department-issued shotgun is the Remington, Model 870, 12 Gauge.

When not deployed, the shotgun shall be properly secured in a locking weapons rack in the Field Services Division supervisor vehicle with the magazine loaded, the action closed on an empty chamber, the trigger pulled to release the hammer and the safety in the safe position.

306.3.3 PATROL RIFLES

The authorized department-issued patrol rifle is a AR15 style patrol rifle, 5.56 Caliber.

Officers may deploy the patrol rifle in any circumstance where the officer can articulate a reasonable expectation the rifle may be needed. When not deployed, the patrol rifle shall be properly secured in cruiser safe mode, in a locking weapons rack in the patrol vehicle, armory located at the police department or approved storage facility.

306.3.4 PERSONALLY OWNED DUTY FIREARMS

Sworn officers are not authorized to carry a personally owned firearm while on duty.

306.3.5 AUTHORIZED SECONDARY HANDGUN

Sworn officers desiring to carry department owned secondary handguns are subject to the following restrictions:

- (a) The handgun shall be a department issued Smith and Wesson Shield, 40 Caliber, with department issued ammunition.
- (b) Only one secondary handgun may be carried at a time.
- (c) The handgun and duty ammunition shall be issued by the department.
- (d) The handgun shall be carried concealed at all times while in public and in such a manner as to prevent unintentional cocking, discharge or loss of physical control.
- (e) The handgun shall be inspected by the Training Sergeant or authorized designee prior to being issued and thereafter shall be subject to inspection whenever it is deemed necessary.
- (f) Prior to carrying the secondary handgun, members shall qualify under range supervision and thereafter shall qualify in accordance with the department qualification schedule. Members must demonstrate proficiency and safe handling, and that the handgun functions properly.

306.3.6 AUTHORIZED OFF-DUTY FIREARMS

The carrying of firearms by members while off-duty is permitted by the Chief of Police but may be rescinded should circumstances dictate (e.g., administrative leave). Members who choose to carry a firearm while off-duty, based on their authority as peace officers, will be required to meet the following guidelines:

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- (a) A personally owned firearm shall be used, carried and inspected in accordance with the Personally Owned Duty Firearms requirements in this policy.
 - 1. The purchase of the personally owned firearm and ammunition shall be the responsibility of the member.
- (b) The firearm shall be carried concealed at all times and in such a manner as to prevent unintentional cocking, discharge or loss of physical control.
- (c) It will be the responsibility of the member to submit the firearm to the Training Sergeant or their designee for inspection prior to being personally carried. Thereafter the firearm shall be subject to periodic inspection by the Training Sergeant or their designee.
- (d) Prior to carrying any off-duty firearm, the member shall demonstrate to the Training Sergeant that he/she is proficient in handling and firing the firearm and that it will be carried in a safe manner.
- (e) The member will successfully qualify annually with the firearm prior to it being carried.
- (f) Members shall provide written notice of the make, model, serial number, and caliber of the firearm to the Training Sergeant, who will maintain a list of the information.
- (g) If a member desires to use more than one firearm while off-duty, he/she may do so, as long as all requirements set forth in this policy for each firearm are met.
- (h) Members shall only carry department-authorized ammunition.
- (i) Officers must carry their issued Fargo Police Department badge and identification card when carrying a concealed firearm while off-duty.

306.3.7 AMMUNITION

Sworn officers shall carry only department-authorized ammunition. Department issued ammunition will be replaced by the Training Sergeant as needed. Replacements for unserviceable or depleted ammunition issued by the department shall be dispensed by the Training Sergeant or authorized designee when needed and in accordance with established policy.

Sworn officers carrying personally owned authorized firearms of a caliber differing from department-issued firearms shall be responsible for obtaining fresh duty ammunition in accordance with the above, at their own expense.

306.4 EQUIPMENT

Firearms carried on- or off-duty shall be maintained in a clean, serviceable condition. Maintenance and repair of authorized personally owned firearms are the responsibility of the individual officer.

306.4.1 REPAIRS OR MODIFICATIONS

Each officer shall be responsible for promptly reporting any damage or malfunction of an issued firearm to a supervisor, the Training Sergeant or authorized designee.

Firearms that are the property of the department may be repaired or modified only by a person who is department-approved. Such modification or repairs must be authorized in advance by the Training Sergeant or authorized designee.

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306.4.2 HOLSTERS

Only department-approved holsters shall be used. Officers shall periodically inspect their holsters to make sure they are serviceable, and provide the proper security, and retention of the handgun.

Officers assigned to plain clothes assignments, as well as administrative staff, must have a level-one retention holster that has been approved by the Training Sergeant or an authorized designee.

306.4.3 TACTICAL LIGHTS

Tactical lights may only be installed on a firearm carried on-duty after they have been examined and approved by the Training Sergeant or authorized designee.

306.4.4 OPTICS OR LASER SIGHTS

Optics or laser sights may only be installed on the AR-15 style patrol rifle in strict accordance with manufacturer specifications. Sworn officers shall qualify with the patrol rifle to ensure proper functionality. The Training Sergeant or their designee will insure proper sighting of the firearm prior to carrying the firearm.

306.5 SAFE HANDLING, INSPECTION, AND STORAGE

Officers shall maintain the highest level of safety when handling firearms and shall consider the following:

- (a) Officers shall not unnecessarily display or handle any firearm.
- (b) Officers shall be governed by all rules and regulations pertaining to the use of the range and shall obey all orders issued by the Training Sergeant.
- (c) Members shall not clean, repair, load or unload a firearm anywhere in the department, except where clearing barrels are present.
- (d) Shotguns or rifles removed from vehicles or the equipment storage room shall be loaded and unloaded using clearing barrels.
- (e) Officers shall not place or store any firearm or other weapon on department premises except where the place of storage is locked. No one shall carry firearms into the jail when securing or processing an arrestee, but shall place all firearms in a secured location.
- (f) Any firearm authorized by the department to be carried on- or off-duty that is determined by an officer to be malfunctioning or in need of service or repair shall not be carried. It shall be promptly reported to the Training Sergeant for inspection and repair. Any firearm deemed in need of repair or service by the Training Sergeant or an authorized designee will be immediately removed from service. If the firearm is the sworn officer's primary duty firearm, a replacement firearm will be issued to the officer until the duty firearm is serviceable.

306.5.1 INSPECTION AND STORAGE

Handguns shall be inspected regularly, and upon access or possession by another person. Patrol rifles shall be inspected at the beginning of the shift by the officer to whom the weapon is issued. The officer shall ensure the firearm is carried in the proper condition and loaded with approved

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ammunition. Inspection of the shotgun and rifle shall be done while standing outside of the patrol vehicle. All firearms shall be pointed in a safe direction or into clearing barrels.

Handguns may remain loaded if they are secured in an appropriate holster. Shotguns and rifles shall be unloaded in a safe manner outside the building and then stored in the appropriate equipment storage room.

306.5.2 STORAGE AT HOME

Officers should ensure all firearms and ammunition are secured while in their homes or any other area under their control, and in a manner that will keep them inaccessible to children and others who should not have access. Officers should be aware that negligent storage of a firearm could result in civil liability.

306.5.3 ALCOHOL AND DRUGS

Firearms shall not be carried by an officer, either on- or off-duty, who has consumed an amount of an alcoholic beverage, taken any drugs or medication, or has taken any combination thereof that would tend to adversely affect the officer's senses or judgment.

306.6 FIREARMS TRAINING AND QUALIFICATIONS

All sworn officers who carry a firearm while on-duty are required to successfully complete training with their duty firearms. In addition all officers will qualify at least annually, including successfully completing a North Dakota mandated firearms requalification program on a POST-certified range course unless waived by POST (N.D.A.C. § 109-02-03-04; N.D.A.C. § 109-02-03-06). Any officer who has not requalified within the two previous years shall successfully complete both the POST written examination and the certified range course.

Sworn officer will qualify with off-duty and secondary firearms annually on an approved range course.

At least annually, all officers carrying a firearm should receive practical training designed to simulate field situations including low-light shooting.

306.6.1 NON-CERTIFICATION OR NON-QUALIFICATION

If any sworn officer fails to meet minimum standards for firearms training or qualification for any reason, including injury, illness, duty status or scheduling conflict, that officer shall submit a memorandum to his/her immediate supervisor prior to the end of the required training or qualification period.

Those who fail to meet minimum standards or qualify on their first shooting attempt shall be provided remedial training and will be subject to the following requirements:

- (a) Additional range assignments may be scheduled to assist the officer in demonstrating consistent firearm proficiency.
- (b) Officers shall be given credit for a range training or qualification when obtaining a qualifying score or meeting standards after remedial training.

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Officers who fail to demonstrate duty firearms proficiency as required by policy, or who fail to meet POST qualification requirements, may not carry a firearm in the course of employment and will be relieved from field assignment (N.D.A.C. § 109-02-03-01). Disciplinary action may follow.

306.7 FIREARM DISCHARGE

Except during training or recreational use, any member who discharges a firearm intentionally or unintentionally, on- or off-duty, shall report the discharge to his/her supervisor as soon as circumstances permit. If the discharge results in injury or death to another person, additional statements and reports shall be made in accordance with the Officer-Involved Shootings and Deaths Policy. If a firearm was discharged as a use of force, the involved officer shall adhere to the additional reporting requirements set forth in the Response to Resistance Policy.

306.7.1 DESTRUCTION OF ANIMALS

Officers are authorized to use firearms to stop an animal in circumstances where the animal reasonably appears to pose an imminent threat to human safety and alternative methods are not reasonably available or would likely be ineffective.

In circumstances where there is sufficient advance notice that a potentially dangerous animal may be encountered, department members should develop reasonable contingency plans for dealing with the animal (e.g., fire extinguisher, TASER® device, oleoresin capsicum (OC) spray, animal control officer). Nothing in this policy shall prohibit any officer from shooting a dangerous animal if circumstances reasonably dictate a contingency plan has failed or becomes impractical.

306.7.2 INJURED ANIMALS

With the approval of a supervisor, a sworn officer may euthanize an animal that is so badly injured that human compassion requires its removal from further suffering and where other dispositions are impractical.

306.7.3 WARNING AND OTHER SHOTS

Generally, warning shots or shots fired for the purpose of summoning aid are discouraged and may not be discharged unless the member reasonably believes that they appear necessary, effective and reasonably safe.

306.8 TRAINING SERGEANT DUTIES

The range will be under the exclusive control of the Training Sergeant or an authorized designee. All officers attending will follow the directions of the Training Sergeant or authorized designee. The Training Sergeant will maintain a roster of all officers attending the range and will submit the roster to the Administrative Lieutenant after each range date. Failure of any officer to sign in with the Training Sergeant or authorized designee may result in non-participation or non-qualification.

The range shall remain operational and accessible to department officers during hours established by the department.

The Training Sergeant or an authorized designee has the responsibility of making periodic inspection, at least once a year, of all duty firearms carried by officers of this department to verify

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proper operation. The Training Sergeant has the authority to deem any department-issued or personally owned firearm unfit for service. The officer will be responsible for all repairs to his/her personal firearm; it will not be returned to service until it has been inspected and approved by the Training Sergeant or an authorized designee.

The Training Sergeant has the responsibility for ensuring each officer meets the minimum requirements during training shoots and, on at least a yearly basis, can demonstrate proficiency in the care, cleaning and safety of all firearms the officer is authorized to carry.

The Training Sergeant shall complete and submit to the Administrative Training Lieutenant documentation of the training courses provided. Documentation shall include the qualifications of each instructor who provides the training, a description of the training provided and, on a form that has been approved by the department, a list of each officer who completes the training. The Training Sergeant should keep accurate records of all training shoots, qualifications, repairs, maintenance or other records as directed by the Administrative Training Lieutenant.

The Training Sergeant shall forward documentation of licensed department personnel duty firearm qualifications to POST as required by state law (N.D.A.C. § 109-02-03-07(3)).

306.9 FLYING WHILE ARMED

The Transportation Security Administration (TSA) has imposed rules governing law enforcement officers flying armed on commercial aircraft. The following requirements apply to officers who intend to be armed while flying on a commercial air carrier or flights where screening is conducted (49 CFR 1544.219):

- (a) Officers wishing to fly while armed must be flying in an official capacity, not for vacation or pleasure, and must have a need to have the firearm accessible, as determined by the department based on the law and published TSA rules.
- (b) Officers must carry their Fargo Police Department identification card, bearing the officer's name, a full-face photograph, identification number, the officer's signature, the signature of the Chief of Police or the official seal of the department, and must present this identification to airline officials when requested. The officer should also carry the standard photo identification needed for passenger screening by airline and TSA officials (e.g., drivers license, passport).
- (c) The Fargo Police Department must submit a National Law Enforcement Telecommunications System (NLETS) message prior to the officer's travel. If approved, TSA will send the Fargo Police Department an NLETS message containing a unique alphanumeric identifier. The officer must present the message on the day of travel to airport personnel as authorization to travel while armed.
- (d) An official letter signed by the Chief of Police authorizing armed travel may also accompany the officer. The letter should outline the officer's need to fly armed, detail his/her itinerary, and should include that the officer has completed the mandatory TSA training for a law enforcement officer flying while armed.

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- (e) Officers must have completed the mandated TSA security training covering officers flying while armed. The training shall be given by the department-appointed instructor.
- (f) It is the officer's responsibility to notify the air carrier in advance of the intended armed travel. This notification should be accomplished by early check-in at the carrier's check-in counter.
- (g) Any officer flying while armed should discreetly contact the flight crew prior to take-off and notify them of his/her assigned seat.
- (h) Discretion must be used to avoid alarming passengers or crew by displaying a firearm. The officer must keep the firearm concealed on his/her person at all times. Firearms are not permitted in carry-on luggage and may not be stored in an overhead compartment.
- (i) Officers should try to resolve any problems through the flight captain, ground security manager, TSA representative or other management representative of the air carrier.
- (j) Officers shall not consume alcoholic beverages while aboard an aircraft, or within eight hours prior to boarding an aircraft.

306.10 CARRYING FIREARMS OUT OF STATE

Qualified, active, full-time officers of this department are authorized to carry a concealed firearm in all other states subject to the following conditions (18 USC § 926B):

- (a) The officer shall carry his/her Fargo Police Department identification card whenever carrying such firearm.
- (b) The officer is not the subject of any current disciplinary action which could result in administrative leave or termination.
- (c) The officer may not be under the influence of alcohol or any other intoxicating or hallucinatory drug.
- (d) The officer will remain subject to this and all other department policies (including qualifying and training).

Officers are cautioned that individual states may enact local regulations that permit private persons or entities to prohibit or restrict the possession of concealed firearms on their property, or that prohibit or restrict the possession of firearms on any state or local government property, installation, building, base or park. Federal authority may not shield an officer from arrest and prosecution in such locally restricted areas.

Active peace officers from other states are subject to all requirements set forth in 18 USC § 926B.