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## 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 (PCD) but is intended to include all mobile telephones, Personal Digital Assistants (PDA) 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 microblogging, e-mailing, 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-duty, or used off-duty in any manner reasonably related to the business of the Department, will be subject to monitoring and inspection consistent with the standards set forth in this policy.

The inappropriate use of a PCD while on-duty may impair officer safety. Additionally, members are advised and cautioned that the use of a personally owned PCD either on-duty or after duty hours for business-related purposes 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 POLICY

The use of any department-provided or -funded PCD, computer, Internet service, telephone service or other wireless service is without any expectation of privacy that the member might otherwise have in any communication, including the content of any such communication. Communications or data reception on personal, password-protected, web-based e-mail accounts and any other services are subject to monitoring if department equipment is used.

In accordance with this policy, supervisors are authorized to conduct a limited administrative search of electronic files without prior notice, consent or a search warrant, on department-issued or personally owned PCDs that have been used to conduct department-related business. Administrative searches can take place for work-related purposes that may be unrelated to investigations of member misconduct and, as practicable, will be done in the presence of the affected member. Prior to conducting any search of personally owned devices, supervisors shall consult with the Chief of Police. All such searches shall be fully documented in a written report.

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#### **701.4 DEPARTMENT-ISSUED PCD**

Depending on a member's assignment and the needs of the position, the Department may, at its discretion, issue or fund a PCD. Department-issued or funded PCDs are provided as a convenience to facilitate on-duty performance. Such devices and the associated telephone number 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.

The following actions are prohibited from use on department issued PCD's unless authorized by the Chief of Police or his designee:

- (a) Making toll calls or calls to sites that incur additional charges for a service, to include 411.
- (b) Calls to any country outside the United States.
- (c) Taking the phone outside the United States.
- (d) Failure to use the protective case provided by the department.
- (e) Excessive personal use of the phone outside of the provider network resulting in a higher cost plan. Employees on or off duty may make personal calls with the phone within reasonable limits.

#### **701.5 PERSONALLY OWNED PCD**

Members may carry their own PCD while on-duty, subject to the following conditions and limitations:

- (a) Permission to carry a personally owned PCD may be revoked if it is used contrary to provisions of this policy.
- (b) The Department accepts no responsibility for loss of or damage to a personally owned PCD.
- (c) The PCD and any associated services shall be purchased, used and maintained solely at the member's expense.
- (d) The device should not be used for work-related purposes except in exigent circumstances (e.g., unavailability of radio communications). Members will have a reduced expectation of privacy when using a personally owned PCD in the workplace and have no expectation of privacy with regard to any department business-related communication.
  - 1. Members may use personally owned PCDs on-duty for routine administrative work as authorized by the Chief of Police.
- (e) The device shall 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 Chief of Police.

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- (f) Use of a personally owned PCD for official department work constitutes consent for the Department to access the PCD to inspect and copy data to meet the needs of the Department, which may include litigation, open records retention and release obligations and internal investigations. If the PCD is carried on-duty, members will provide the Department with all telephone access numbers for the device if requested.
- (g) All work-related documents, emails, photographs, recordings or other public records created or received on a member's personally owned PCD should 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.

#### **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 may not be used to conduct personal business while on-duty, except for brief personal communications (e.g., informing family of extended hours). Members shall endeavor to limit their use of PCDs to authorized break times, as much as practical out of the sight of the public, and shall not be disruptive to the work environment, unless an emergency exists.
- (b) 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 be used as a substitute for, as a way to avoid or in lieu of regular radio communications.
- (c) 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 Fargo Police Department business.
- (d) Members will not access social networking sites for any purpose that is not official Fargo Police Department business.
- (e) Using PCDs to harass, threaten, coerce or otherwise engage in inappropriate conduct with any third party is prohibited. Any member having knowledge of such conduct shall promptly notify a supervisor.
- (f) Members are not required to carry, access or monitor department issued PCD's and are not to respond to work related electronic communications using a PCD while off-duty unless authorized. If an off-duty member is in an authorized status that allows for appropriate compensation consistent with policy or if the off-duty member has prior express authorization from his/her supervisor, the member may engage in department business-related communications on their department issued PCD. Should members engage in such approved off-duty communications or work, members entitled to compensation shall document the time worked. Members who independently document off-duty department-related business activities shall provide their supervisor a description of the work conducted and the number of hours worked.

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### **701.7 SUPERVISOR RESPONSIBILITIES**

Supervisors shall ensure that members under their command are provided appropriate training on the use of PCDs consistent with this policy. Supervisors shall monitor, to the extent practicable, PCD use in the workplace and take prompt corrective action if a member is observed or reported to be improperly using a PCD. An investigation into improper conduct should be promptly initiated when circumstances warrant. Before conducting any administrative search of a member's personally owned device, supervisors should consult with the Chief of Police or the authorized designee.

### **701.8 USE WHILE DRIVING**

The use of a PCD while operating a motor vehicle can cause unnecessary distractions and presents a negative image to the public. On-duty members 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)).

### **701.9 OFFICIAL USE**

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. Whenever reasonably possible, members shall conduct sensitive or private communications on a land-based or other department communications network.