



STATE OF DELAWARE
THE JUSTICE OF THE PEACE COURT


5 E. PINE STREET
GEORGETOWN, DELAWARE 19947
TELEPHONE: (302) 856-5871
FAX: (302) 856-5919

ALAN G. DAVIS
CHIEF MAGISTRATE

2 PENNS WAY
SUITE 100 B
NEW CASTLE, DELAWARE 19720
TELEPHONE: (302) 323-4530

POLICY DIRECTIVE 18-257

TO: ALL UNIFORMED SERVICES EMPLOYEES

FROM: ALAN G. DAVIS
CHIEF MAGISTRATE 

RE: FIREARMS POLICIES AND TRAINING PROGRAMS

DATE: MAY 24, 2018

Scope:

This Policy Directive sets forth the policies for officers in the Uniformed Services Division relating to firearms. It includes policies on issuance, restrictions, maintenance, storage and training for agency issued firearms. The Justice of the Peace Court recognizes that continual training for staff is essential to its goal of maintaining the highest level of professionalism and competence in the performance of duties and maintaining a safe environment for staff and the public that we serve.

Justice of the Peace Court Policy Directives/Procedural Memoranda Affected:

Procedural Memorandum 17-003, Policy Directive 14-248, Procedural Memorandum 14-012, Procedural Memorandum 14-013.

Issuance of this policy rescinds Policy Directive 82-056.

Related Policies, Procedures and Memoranda: This policy rescinds and replaces the Firearm Policy in the Delaware Justice of the Peace Court State Constable and Court Security Officer handbook.

Effective Date:

This policy shall take effect May 24, 2018 and shall continue until further notice.

Definitions:

Agency – State of Delaware, Justice of the Peace Court.

Alternate Duty - A temporary assignment to job duties that are different or modified from the duties usually performed.

Armorer - The Chief of Uniformed Services, a Chief of Court Security, Constable II, Court Security Supervisor, Court Security Officer II, Trainer/Educator II, or any other Uniform Services title or position designated by the Chief Magistrate or his or her designee, of the Uniformed Services Division who has been trained and certified to maintain, inspect, service, and repair Agency-issued firearms.

COPT – The Delaware Council on Police Training.

COPT Equivalent – Any training that meets standards equivalent to COPT firearms training.

Duty-Load Condition – Condition when authorized firearms are loaded to full capacity (one round chambered and magazine is filled to maximum capacity) and capable of firing when trigger is pulled.

Firearms Coordinator - The Chief of Uniformed Services, a Chief of Court Security, Constable II, Court Security Supervisor, Court Security Officer II, Trainer/Educator II, or any other Uniform Services title or position designated by the Chief Magistrate or his or her designee of the Uniformed Services Division who has been certified to provide firearms training and who is responsible for overseeing training of Officers in the Uniformed Services Division.

Firearms Instructor - The Chief of Uniformed Services, a Chief of Court Security, Constable II, Court Security Supervisor, Court Security Officer II, Trainer/Educator II, or any other Uniform Services title or position designated by the Chief Magistrate or his or her designee of the Uniformed Services Division who has been certified to provide firearms training to Officers in the Uniformed Services Division.

Firearms Training – Firearms training conducted at a firearms training facility by an instructor certified to teach a firearms training curriculum that is equivalent to the standards of the COPT basic firearms and requalification training.

Locked Container – A safe, commercial lock box, locking drawer or closet, or any other box or area secured by a lock.

Officer – An employee of the Justice of the Peace Court, including full-time, part-time, contract¹ and casual seasonal employees, assigned to the Uniformed Services Division, including but not limited to the Chief of Uniformed Services, Trainer/Educator II, Chiefs of Court Security, Court Security Supervisor, Constables, and Court Security Officers.

¹ Contract employees are governed by the applicable contractual obligations rather than this policy.

On-duty - Performing work at the direction of the agency during compensable work hours, which includes traveling to and from work for the purposes of carrying a service weapon while in uniform.

Quartermaster - The Chief of Uniformed Services, a Court Security Supervisor, Chief of Court Security, Trainer/Educator II, or any other Uniform Services title or position designated by the Chief Magistrate or his or her designee who is responsible, in part, for maintaining an accurate inventory of all service weapons and ammunition, including duty and training ammunition. Uniformed services division employees may provide assistance to the quartermaster at his or her discretion.

Range Safety Officers - An Officer selected to ensure all range users follow all instructions and range regulations in order to reduce the risk of injury or property damage. Range safety Officers, unless they are a Certified Firearms Instructor, are not to offer instruction or advice to Officers in training, but to ensure that Officers are acting in a safe manner.

Remedial Firearms Training - Training prescribed by the Chief of Uniformed Services on the recommendation of the Trainer/Educator II or Firearms Instructor for an Officer to enhance or improve proficiency with firearms.

Safe Condition - The state of the firearm being unloaded and ammunition being maintained in a separate location from the firearm; the firearm and ammunition are not readily accessible to minors or unauthorized persons.

Service Weapon - An Agency owned or controlled firearm that is issued to an Officer to carry while on-duty as authorized or to any other Agency individual authorized by the Chief Magistrate to carry.

Successfully complete or Qualify - To complete an approved firearms qualification shooting course with a score of 80% or better and to demonstrate sound judgement and safe handling techniques as determined by the Firearms Instructor.

Supervisor - The Officer's supervisor and during Firearms Training, the Firearms Instructor, who will have directive authority over every Officer in attendance during the Firearms Training regardless of organizational position or title.

Training Ammunition - Ammunition provided by the agency for purposes of training that is authorized by the training facility for training purposes.

Uniform - The full uniform approved by the Justice of the Peace Court for members of the Uniformed Services Division, which also includes the approved training uniform.

Uniformed Services Division - the agency's security unit which includes Constables, Court Security Officers, Court Security Supervisors, Court Security Chiefs, the agency's Security Trainer (Trainer/Educator II), and the Chief of Uniformed Services, in addition to any other job classification assigned to a security duty.

Policy:

It is the policy of the Justice of the Peace Court that Officers in the Uniformed Services Division maintain the highest level of professionalism, competence and safety for the protection of all staff and the public. It is further the policy of the Justice of the Peace Court that all Officers in the Uniformed Services Division are trained properly to be proficient, safe and competent in the use of their issued service weapon.

A. Requirement to Carry a Service Weapon and Issuance

All Officers of the Uniformed Services Division must be able to carry a firearm in order to execute the essential functions of their position.

Officers shall be issued a service weapon upon successful completion of the Initial Firearms Certification Course. Officers shall be required to successfully complete a re-certification course with their service weapon in accordance with COPT or equivalent standards.

Officers shall report to their supervisor any condition or prohibition that renders them unable to carry a service weapon as soon as practical. This includes any physical or mental condition, whether temporary or permanent, and/or any legal impediment that prohibits the Officer from lawfully possessing a firearm. The inability to carry a service weapon may result in an assignment of alternate duty, remedial training, or the dismissal of the Officer from employment.

An Officer shall not carry his or her service weapon while off-duty² under any circumstances unless authorized by the Chief Magistrate or his or her designee.

B. Personal Firearms Prohibited

An Officer shall not carry or possess a personally owned firearm while on-duty under any circumstances.

C. Service Weapon: Carry, Storage and Safety

Officers shall carry their service weapon while on regular uniformed duty. The service weapon shall be fully loaded in the "duty-load" configuration in an agency issued holster.

For uniformed Officers that interact with the public, the service weapon shall be carried in an agency issued Level III holster attached to the full Duty Belt. Officers who are assigned work that does not interact with the public directly, shall carry their service weapon in an agency issued Level II or above (administrative) holster attached to their Garrison Belt.

Except for specifically identified instances that are approved in writing by the Chief Magistrate, a service weapon shall not be worn by on-duty Officers who are not in a uniform.

² An Officer is considered off-duty during non-working hours and while not in uniform. If an Officer is in uniform, the service weapon should be carried. In order to minimize the amount of time carrying the service weapon during non-working hours, Officers should only remain in uniform before and after work hours for a reasonable period of time.

When a service weapon is not in the immediate possession or control of an Officer, including while at his or her residence, Officers shall ensure at least one of the following conditions is met:

1. The service weapon shall be secured in an appropriate locked container; or
2. The service weapon shall have a commercial gun lock or other locking device which renders the firearm incapable of firing.

D. Display of Service Weapon Prohibited

An Officer shall not display or un-holster his or her service weapon except under any of the following circumstances:

1. For maintenance of the service weapon by the agency armorer.
2. To secure the service weapon.
3. During Firearms Training or authorized practice.
4. At the direction of a Uniformed Services Supervisor or any other Justice of the Peace Court employee designated by the Chief Magistrate or his or her designee to give such direction.
5. When the Officer has a reasonable belief that it may be necessary for the Officer to use the service weapon in accordance with the agency's defined Use of Force policy.

Officers must notify their supervisor and submit a written report as soon as practicable anytime their service weapon is displayed, other than during agency maintenance, Firearms Training, authorized practice or to secure it.

E. Firearms and Intoxicants, Illicit or Prescribed Drugs

Officers shall not consume or be under the influence of intoxicants while carrying their service weapon.

Officers shall refrain from taking any substance, including medication or prescription drugs, that diminishes the Officer's ability to remain alert and in control of their surroundings. It is the duty of each Officer to report to their supervisor any drug they may have consumed that may impair their ability to remain alert and in control of their surroundings.

F. Firearms and Ammunition in Vehicles

An Officer shall not transport any non-agency issued firearm or ammunition in an agency vehicle. A service weapon and agency issued ammunition may be stored temporarily in an agency vehicle or personal vehicle when wearing or carrying the service weapon would be impractical.

However, no service weapon or agency issued ammunition shall be left in view in any unattended vehicle.

G. Ammunition

Service weapons shall be loaded with only agency issued ammunition. Only magazines issued by the agency may be used with service weapons.

H. Authorization to Carry Issued Firearm into a Non-JP Court Delaware State Judicial Branch Facility

Pursuant to the Judicial Branch Statewide Security Policy #5, Section II, 1, Officers in uniform who are required to enter any non-Justice of the Peace Court State of Delaware Judicial Branch facility on court business are authorized by the Chief Magistrate to carry their service weapon into such facilities.

In accordance with Statewide Judicial Branch Security Policy #5, Section II, 3, all uniformed Officers must secure their service weapon in a level III holster (minimum standard). All non-uniformed Officers, authorized to carry a service weapon, must secure their service weapon in a level II holster (minimum standard).

I. Authorization to Carry a Concealed Firearm

An Officer shall not carry his or her service weapon in a concealed manner unless specifically authorized in writing as outlined herein. An Officer is authorized to carry a service weapon in a concealed manner only upon written authorization issued by the Chief Magistrate when the Officer is assigned a plain clothes special assignment and is on duty. Traveling to and from work is considered on-duty for the purpose of carrying the service weapon while in plain clothes on special assignment, and with authorization to carry the service weapon concealed.

J. Alterations or Repairs to Service Weapon

Routine cleaning and maintenance of the issued service weapon shall be performed by the Officer. Repairs or modifications to service weapons shall only be performed by agency armorers.

K. Damage, Inspection and Maintenance

An Officer shall make an oral or written notification to his or her supervisor and the agency armorer as soon as practicable whenever his or her service weapon is damaged or not functioning properly. The Officer also shall submit a written report to his or her supervisor and the agency armorer detailing the damage or malfunction, including information regarding how the damage occurred and any other information relevant to the damage or malfunction. The agency armorer will either repair the service weapon or replace the service weapon so that the Officer may be returned to full duty as soon as possible.

At minimum, all Officers will have their service weapon inspected when reporting to the range for Firearms Training by the agency armorer.

The agency armorer shall service, inspect and perform any maintenance on service weapons prior to issuing to an Officer and upon turn-in.

L. Inventory

The Quartermaster shall maintain an accurate written record of all service weapons and ammunition, including a recording of serial numbers of service weapons, the name of the Officer assigned the equipment, quantity and type of ammunition distributed, and any other information relevant to maintaining a current and accurate inventory.

M. Firearms Training

In accordance with the Judicial Branch Statewide Security Policy #5, in order to carry an agency issued firearm, all Officers of the Uniformed Services Division of the Justice of the Peace Court shall complete successfully the Initial Firearms Certification Course established by the COPT or an equivalent firearms training that meets COPT training requirements for handgun qualification³. In addition, Officers shall complete successfully the firearms training course established by the COPT or an equivalent course that meets COPT training requirements for annual recertification. COPT firearms training requirements are codified in Title 1, Chapter 800 of the Delaware Code, Section 11 and 12.

All firearms training shall be conducted by only COPT certified instructors, or instructors certified to deliver training that is equivalent to COPT firearms standards. Without exception, a Certified Firearms Instructor shall be present for all live firearms training and qualification courses.

Firearms Instructors may be assisted by Range Safety Officers during live fire training or other range activities. During the certification course, every three students engaged in live fire training shall be supervised by at least one Firearms Instructor or Range Safety Officer. For the purpose of recertification, every five shooters engaged in live fire training shall be supervised by at least one Firearms Instructor or Range Safety Officer.

Officers shall comply with all rules and regulations of the training facility.

Any Officer who is aware that they will not be able to physically complete the firearms course as prescribed by the agency safely is required to notify their supervisor and/or the Firearms Instructor of the inability. If a Firearms Instructor becomes aware that an Officer is not able to physically complete the firearms course safely, they may relieve the Officer from the training program. Any Officer who is, physically unable to complete any portion of the qualification course safely, is required to provide a note from his/her doctor to Human Resources. The note shall identify any physical limitations that may prevent the Officer from performing any portion of the course in a safe manner.

³ In addition, Title 10, Section 2806 of the Delaware Code requires that every Justice of the Peace Court constable receive annual firearms training that meets the minimum standards established by the Council on Police Training for part-time officers or the equivalent thereof approved by the Board. See 10 *Del. C.* §2806.

Follow up steps will be taken by the Officer's supervisor with assistance from Human Resources to determine next steps for the Officer and their qualification.

N. Failure to Qualify

Failure of an Officer to successfully complete either their Initial Firearms Certification Course or their Bi-Annual Firearms Recertification Course(s), may result in alternate duty assignment and/or assignment to remedial firearms training or in dismissal from employment. Officers who fail to qualify shall not be permitted to carry their service weapon.

Any Officer who fails to qualify shall notify his or her supervisor as soon as practicable. In addition, the Firearms Instructor shall notify the Officer's supervisor of any Officer's failure to qualify. Officers who fail to qualify on their first recertification attempt may be permitted to shoot a second qualification course immediately following the failed attempt.

An Officer who fails to qualify during their Initial Firearms Certification Course (40 Hours) shall receive remedial and "one on one" training during the course of the week; however, any Officer failing to qualify by the end of their respective class will not receive additional remedial training and shall be dismissed from employment.

An Officer who fails to successfully complete their Firearms Recertification(s), may be placed in an alternate duty assignment at the discretion of the agency and may be assigned to remedial firearms training. There is no right to be placed on alternate duty. As soon as possible or after receiving remedial instruction, the Officer who is placed in an alternate assignment will be scheduled to retest in order to successfully complete the Firearms Training. Failure to successfully complete their recertification after three (3) attempts within 30 days may result in the Officer's termination from employment.

An Officer who successfully completes their firearms recertification within the three (3) recertification attempts will be returned to regular duty but may be assigned remedial firearms training at the discretion of the Trainer/Educator II.

In an effort to enhance individual proficiency, any Officer may be assigned remedial training at the discretion of the Trainer/Educator II.

O. Practice with Service Weapon

1. An Officer may train using his or her service weapon with live ammunition only when given permission by the Firearms Coordinator and only under the following conditions:
 - a. at a facility approved by the Firearms Coordinator; and
 - b. while on-duty; and
 - c. using training ammunition provided by the agency; and
 - d. in the presence of a Firearms Instructor.
2. Practice other than with live ammunition is encouraged, i.e. holster drills, dry firing, sight picture and alignment.

3. All other training and practice with live ammunition is prohibited unless specifically authorized by the Chief Magistrate or his or her designee. Prohibited use may result in disciplinary action, up to and including dismissal.

cc: All Justice of the Peace Court Employees
Honorable Leo E. Strine, Jr
Honorable Andre Bouchard
Honorable Jan Jurden
Honorable Alex J. Smalls
Honorable Michael K. Newell
Amy Quinlan, State Court Administrator
Marianne Kennedy
Jody Huber, Esquire
Mark Hitch
Jill Malloy
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