

IN THE SUPREME COURT OF THE STATE OF ARIZONA

In the Matter of:)	
)	
ARIZONA CODE OF JUDICIAL)	Administrative Order
ADMINISTRATION § 6-113:)	No. 2014 - <u>127</u>
FIREARMS STANDARDS)	(Affecting Administrative
)	Order No. 2014-07)
)	

An amendment to the above-captioned section of the Arizona Code of Judicial Administration having come before the Arizona Judicial Council on December 11, 2014, and having been approved and recommended for adoption,

Therefore, pursuant to Article VI, Section 3, of the Arizona Constitution,

IT IS ORDERED that Arizona Code of Judicial Administration § 6-113 is amended as indicated on the attached document. All other provisions of § 6-113, as originally adopted, remain unchanged and in effect.

Dated this 17th day of December, 2014.

SCOTT BALES
Chief Justice

ARIZONA CODE OF JUDICIAL ADMINISTRATION

Part 6: Probation

Chapter 1: General Administration

Section 6-113: Firearms Standards

A. Definitions. In this section, unless otherwise specified, the following definitions apply:

“Certified firearms instructor” means an individual trained in accordance with national law enforcement ~~firearms~~ handgun or long gun training standards and approved by the Administrative Office of the Courts (AOC).

“Firearms” means either a handgun or long gun.

“Firearms automated training system” means a system which visually presents situations the officer may encounter in the officer’s duties and requires the officer to make use-of-force decisions relating to the use of a firearm.

“Firearms involved incident” means an event in which an officer discharges a duty weapon or is victimized by a firearm.

“Handgun” means a pistol as approved by the AOC for use by trained and qualified officers.

“Immediate threat” means the subject poses a risk of instant harm or attack with the elements of jeopardy, opportunity and ability.

“Intentional discharge” means a non-training discharge of a department issued firearm by an officer who is on or off duty, where the officer believes the firearm is loaded and consciously performs all of the actions necessary to cause a discharge.

“Life-threatening” means actions that may cause serious bodily injury or death.

“Long gun” means a shoulder fired weapon approved by the AOC intended for the use of trained and qualified full-time warrants officers or fugitive apprehension officers.

“Low light condition” means firearms training designed to expose officers to situations they may encounter while working at night or in reduced light situations.

“On duty” means the time period during which the officer performs probation duties or is functioning at the direction of the probation department.

“Off duty” means the time period during which the officer is not performing probation duties or functioning at the direction of the probation department.

“Officer” means both adult and juvenile probation and surveillance officers.

“Tactical condition” means training involving the use of distance, shielding and movement, and other issues the officer may encounter during the course of duty.

“Unintentional discharge” means the discharge of a department issued firearm by an officer that is either on or off duty, where the firearm discharges by an action of the officer without the officer’s intent to cause a discharge or when the officer unconsciously acts to cause the firearm to discharge or when outside forces cause the discharge.

“Warrants officer” means a specialized non-case carrying adult officer assigned full-time to the duties of locating and arresting individuals on warrant status. This includes fugitive apprehension officers.

B. Applicability. An officer of a probation departments with the authority of a peace officer pursuant to A.R.S. §§ 12-253, 13-916, 8-205 and Arizona Code of Judicial Administration (ACJA) §§ 6-105 and 6-105.01, may carry and use a firearms while on duty only if authorized by the chief probation officer or director of juvenile court services and under the conditions specified in this section.

C. Purpose. This code governs the administration and authority of an officer to use a firearm while on duty.

D. General Policy. An officer may be armed pursuant to the following:

1. The chief probation officer or director of juvenile court services may require that certain job assignments are staffed by an armed officer. Examples include, but are not limited to:
 - a. Warrant teams; or
 - b. Specialized supervised caseloads.
2. The chief probation officer or director of juvenile court services shall determine when an officer authorized to carry a firearm is restricted from carrying in certain job assignments or in the performance of certain duties.
3. The chief probation officer or director of juvenile court services shall not order an officer to be armed.
4. The chief probation officer or director of juvenile court services may require the transfer of an unauthorized officer to another job assignment if the current assignment requires an armed officer.
5. ~~Officers shall not carry any firearm on their person, at their job location or in their vehicle, while on official business except with prior approval and authorization of the chief probation officer or director of juvenile court services.~~

E. Request for Authorization to Carry a Handgun ~~Firearm~~.

1. An officer seeking authorization to carry a ~~firearm~~ handgun or training on ~~firearms~~ handguns shall submit a written request to the chief probation officer or director of juvenile court services.
2. The chief probation officer or director of juvenile court services shall confirm and document, prior to granting authorization, that the requesting officer has:
 - a. Completed psychological testing meeting minimum standards established by the AOC;
 - b. Completed a criminal history records check;
 - c. Successfully completed and demonstrated proficiency in all required defensive tactics training;
 - d. Completed and certified, on a form approved by the AOC, that they are medically and physically able to perform the job duties of an armed officer;
 - e. Successfully completed the Committee on Probation Education (COPE) approved ~~firearms~~ handgun training academy with the ~~firearm~~ handgun intended for use;
 - f. Successfully completed a COPE approved competency test and training course on ACJA §§ 6-112 and -113, and legal issues relating to ~~firearms~~ handguns; and
 - g. Submitted a form, approved by AOC, attesting that:
 - (1) The officer agrees to submit to an AOC approved psychological evaluation;
 - (2) The officer has no medical, psychological, or health condition including a physical or mental disability, substantially impairing their ability to responsibly carry a ~~firearm~~ handgun or interfering with the safe use of or handling of a ~~firearm~~ handgun;
 - (3) The officer is not addicted to alcohol or prescription drugs;
 - (4) The officer does not use unlawful narcotics or drugs;
 - (5) The officer agrees to submit to random drug tests if authorized to carry a ~~firearm~~ handgun;
 - (6) The officer agrees to submit to drug testing based on reasonable suspicion pursuant to departmental policy and procedures; and
 - (7) The officer shall abide by all ACJA requirements and department policies regarding ~~firearms~~ handguns.
3. The chief probation officer or director of juvenile court services may require that the requesting officer submit to a polygraph examination to inquire about matters that would reasonably be the basis for not authorizing an officer to carry a ~~firearm~~ handgun including, but not limited to, sexual misconduct, use of excessive force and abuse of

authority. A polygraph examination may also be used to question officers where the truthfulness or accuracy of information provided in the request to be armed is at issue.

4. The chief probation officer or director of juvenile court services shall act on the request for initial authorization, within 30 days, by initiating arrangements for the probation officer to undergo the necessary tests, evaluations, checks and training.

F. Required Firearms Training and Qualifications.

1. COPE shall approve a uniform, standardized and statewide firearms training academies and annual re-qualification.
2. The Certified Firearms Instructor (CFI) shall only use curriculum approved by COPE to provide firearms training that meets the following minimum standards.
 - a. Annual handgun training in:
 - (1) Daylight conditions and qualification;
 - (2) Low light conditions and qualification;
 - (3) Tactical conditions;
 - (4) ~~Firearms automated training system or a j~~Judgmental shooting simulation; and
 - (5) Range safety.
 - b. Annual long gun training in:
 - (1) Daylight conditions and qualification;
 - (2) Low light conditions;
 - (3) Tactical conditions;
 - (4) Judgmental shooting simulation; and
 - (5) Range safety.
 - bc. Required instruction on the safe and effective use of department firearms.
3. Departments shall provide range equipment including eye and ear protection for use during training and qualifications.
4. An officer shall comply with all directives of the CFI concerning firearms training and safety.
5. An officer's direct supervisor may give written authorization for the officer to use a department issued firearm for practice while off duty on a range approved by the department.
6. The CFI shall confiscate and take control of the firearm of any officer who exhibits inappropriate or unsafe behavior while on the range or of any firearm determined to be unsafe.

G. Procedures for Handgun Authorization, Denial, Temporary Suspension or Revocation

1. The chief probation officer or director of juvenile court services shall deny authorization to carry a ~~firearm~~ handgun if an officer:
 - a. Has been convicted in any court of a qualifying misdemeanor crime of domestic violence under federal law. See 18 U.S.C. § 922 (g)(9).
 - b. Is subject to a qualifying protection order under federal law. See 18 U.S.C. § 922 (g)(8).
2. The chief probation officer or director of juvenile court services may deny authorization to carry a ~~firearm~~ handgun during any point of the screening and testing process based on the criteria stated in subsection (G)(6).
3. The chief probation officer or director of juvenile court services shall approve or disapprove the request to carry a ~~firearm~~ handgun in writing within 30 days after the officer satisfactorily completes all requirements stated in subsection (E)(2).
4. The chief probation officer or director of juvenile court services shall provide written reasons for denial, temporary suspension, or revocation to the officer and a copy of the approval, denial, temporary suspension, or revocation shall be kept on file.
5. The chief probation officer or director of juvenile court services or designee shall place the original request and the approval or reasons for denial, temporary suspension, or revocation in the officer's personnel file and provide copies to the officer, and to the officer's supervisor.
6. The chief probation officer or director of juvenile court services shall deny, revoke, or temporarily suspend authorization to carry a ~~firearm~~ handgun for the following reasons:
 - a. Results from the psychological evaluation indicating unfitness to carry a ~~firearm~~ handgun;
 - b. The officer is currently diagnosed with a mental disability or illness by a licensed mental health professional that may impact the officer's ability to safely use a ~~firearm~~ handgun;
 - c. The denial or revocation of a permit to carry a concealed weapon by the State of Arizona;
 - d. A result from a criminal history record check or a self report indicating any or all of the following:
 - (1) The conviction of a felony or an offense, which would be a felony if committed in this state;

- (2) The commission of any offense involving dishonesty, unlawful sexual conduct, physical violence or domestic violence;
 - (3) The violation of statutes governing firearms or lethal and non-lethal weapons; and
 - (4) The commission of a misdemeanor involving the carrying or use of a firearm.
- e. The violation of departmental policy or this code relating to the carrying or use of firearms;
 - f. Carrying, exhibiting, or using a firearm in an unsafe or careless manner;
 - g. Disciplinary charges pending or action taken relating to the fitness to carry a ~~firearm~~ handgun;
 - h. Any use of alcoholic beverages on duty or excessive use of alcoholic beverages off duty that affects job performance;
 - i. The administrative reassignment of an officer as a result of a documented stress related disorder or post traumatic stress disorder as diagnosed by a licensed mental health professional that may impact the officer's ability to safely use a firearm;
 - j. A medical, psychological, or health condition including a physical or mental disability, which substantially impairs the officer's ability to responsibly carry a firearm or interferes with the safe use of or handling of a firearm;
 - k. The addiction to alcohol or prescription drugs that would interfere with the safe use of a ~~firearm~~ handgun and render the officer unfit to carry a ~~firearm~~ handgun;
 - l. An officer is found to have illegally used dangerous drugs or narcotics for any purpose within the past seven years;
 - m. An officer is found to have illegally used marijuana for any purpose within the past three years;
 - n. Transfer or reassignment of an officer to an assignment or unit where carrying a ~~firearm~~ handgun is not authorized pursuant to (D)(2) of this section;
 - o. The authorization was based solely upon a specific personal risk to the officer and the risk is determined to no longer exist;
 - p. Arrest for an offense punishable as a felony or for a misdemeanor involving the carrying or use of a firearm;
 - q. Discharge of a firearm by an officer in violation of any municipal, county or state law, regulation or policy;

- r. Drawing a firearm or use of a non-lethal defensive weapon in violation of any municipal, county or state law, regulation or policy;
 - s. Any circumstance, temporary or permanent, other than time in service, which leads the chief probation officer or director of juvenile court services to believe that arming the officer could place that officer, other staff, probationers or the public in jeopardy; or
 - t. Failure to successfully complete the annual re-qualification program and participate in required practice sessions.
7. All screening and testing records shall be maintained in the officer's personnel file and remain confidential as required by law.
 8. The presiding judge shall hear all appeals to the denial, temporary suspension, or revocation and the judicial decision is final and not appealable.
 9. An officer wishing to have their authorization reinstated after revocation may submit a written request to the chief probation officer or director of juvenile court services after one year. The officer shall clearly state the reasons for reinstatement of the authorization. The presiding judge, presiding juvenile judge or judicial designee shall hear all appeals to the denial of reinstatement.

H. Handgun Authorization.

1. An officer granted authorization to carry a ~~firearm~~ handgun shall acknowledge and sign an authorization document indicating the officer understands the terms and conditions contained in the code and any department policy regarding the use of ~~firearms~~ handguns. The authorized officer shall agree to adhere to all state laws regarding the carrying and use of ~~firearms~~ handguns. This includes all laws relating to the use of force.
2. An officer failing to comply with regulations and limitations are subject to disciplinary action and loss of ~~firearm~~ handgun authorization.
3. An officer granted authorization to carry a ~~firearm~~ handgun shall successfully complete the annual re-qualification and participate in all required practice sessions.
4. The chief probation officer or director of juvenile court services may order an authorized officer to submit to an evaluation by a licensed or certified professional when the officer is not performing assigned job functions adequately or who is experiencing problems which could affect job performance or the safety of the public and employees.

- I. Restrictions for Carrying Firearms.** An officer authorized to carry and use a ~~weapon~~ firearm on duty is prohibited from carrying department issued firearms under the following conditions:

1. While in a condition resulting from the use of alcohol or medication where the officer's motor skills, reflexes, or judgment could be adversely affected or while displaying evidence of mental or emotional instability;
2. While injured or in a physical condition causing inability to use a firearm properly, for example, broken hand or an eye injury causing uncorrected impaired vision. This is not intended to limit an authorized officer's ability to defend oneself during the incident or others when injuries are incurred in a life-threatening situation;
3. While on disciplinary or investigative suspension;
4. While on leave, short term or extended, with or without pay, or other periods of unpaid absence from the department;
5. When the chief probation officer, director of juvenile court services, or other superior directs the officer not to carry a firearm;
6. When the chief probation officer or director of juvenile court services revokes the authorization to carry; and
7. When engaged in official travel out of state unless written permission is obtained from the chief probation officer or director of juvenile court services.

J. Authority to Unholster Handgun, ~~Draw and Display Firearms~~. An officer shall only ~~draw unholster~~ their handgun ~~duty weapon from its holster, or display it in public~~, under the following conditions and as authorized in subsection (L) of this section.

- ~~1. In compliance with department policy regarding firearm concealment or exposure;~~
- ~~2~~1. The circumstances surrounding the incident create a reasonable belief that it may become necessary to use the ~~firearm~~ handgun in the performance of probation supervision duties;
- ~~3~~2. When a law enforcement officer requests assistance from an officer in a life-threatening situation;
- ~~4~~3. For maintenance, inspection and training purposes; and
- ~~5~~4. When using the weapon in an approved training course, practice session or qualification with the CFI.

K. Required Reporting of Firearm Handgun Unholstering, ~~Drawing, or Displaying a Firearm~~ in the Course of Duty.

1. Except for training or to secure a ~~weapon~~ handgun or when requested by a CFI for purposes of maintenance, or inspection, an officer who unholsters, ~~draws or displays~~, but

does not discharge a ~~firearm~~ handgun while on duty, shall submit a written report to their supervisor no later than the next business day.

2. The supervisor shall immediately send the written report through the departmental chain of command to the chief probation officer or director of juvenile court services.
3. Failing to comply with reporting requirements may be cause for disciplinary actions, up to and including termination of employment.

L. Authority to Discharge Firearm.

1. An officer shall determine that deadly force is warranted under the circumstances provided by statute before using deadly force in the performance of the officer's duties.

- a. A.R.S. § 13-410(A)(1) provides:

The threatened use of deadly physical force by a person against another is justified pursuant to § 13-409 only if a reasonable person effecting the arrest . . . would believe the suspect . . . is:
(1) Actually resisting the discharge of a legal duty with deadly physical force or with the apparent capacity to use deadly physical force; or

- b. A.R.S. § 13-410(C)(1)(2)(a)(b)(c) and (D) provides:

C. The use of deadly force by a peace officer against another is justified pursuant to section 13-409 only when the peace officer reasonably believes that it is necessary:

1. To defend himself or a third person from what the peace officer reasonably believes to be the use or imminent use of deadly physical force.

2. To effect an arrest . . . of a person whom the peace officer reasonably believes:

- (a) Has committed, attempted to commit, is committing or is attempting to commit a felony involving the use or a threatened use of a deadly weapon.

- (b) Is attempting to escape by use of a deadly weapon.

- (c) Through past or present conduct of the person which is known by the peace officer that the person is likely to endanger human life or inflict serious bodily injury to another unless apprehended without delay.

. . . .

- D. Notwithstanding any other provision of this chapter, a peace officer is justified in threatening to use deadly physical force when and to the extent a reasonable officer believes it

necessary to protect himself against another's potential use of physical force or deadly physical force.

2. An officer shall not:
 - a. ~~Draw or display~~ Unholster a handgun or deploy a long gun ~~weapon~~ unless the situation poses a threat that may warrant the use of the weapon;
 - b. Fire warning shots;
 - c. Fire in the immediate direction of a crowd;
 - d. Fire into buildings or through doors or windows, when the subject is not clearly visible;
 - e. Use firearms to protect property;
 - f. Discharge firearms to apprehend a fleeing offender;
 - g. Fire at a moving vehicle unless it is necessary to protect oneself or others against immediate threat of death or serious physical injury; or
 - h. Fire at an animal unless justified in preventing substantial harm to oneself or another.
3. An officer may use firearms on an approved range or during other approved training, practice or qualification when supervised by a CFI or in other department-approved training.

M. [No changes]

N. [No changes]

O. Authority to Carry and Use Handguns ~~Concealable Firearms~~ While Off Duty.

1. An officer authorized to carry and use the issued firearms handgun and ammunition on duty may request, in writing, separate authorization from the chief probation officer or director of juvenile court services to carry and use the issued ~~firearm-handgun~~ and ammunition off duty. Approval or denial of a request to carry off duty shall be in writing and placed in the officer's personnel file and shall be based on a specific personal risk or need to immediately respond based on assignment.
2. An officer authorized to carry and use a ~~firearm~~ handgun while off duty shall comply with all laws and regulations and ACJA code sections concerning the carrying of ~~firearms~~ handguns.

3. An officer who is carrying off duty without written authorization pursuant to this code section, shall be deemed to be acting outside the course and scope of employment and to be acting completely independently from the county or state.
 - a. The county and state assume no responsibility or liability for those actions.
 - b. Any liability arising from such possession or use of a ~~firearm~~ handgun shall be the sole, individual liability of the officer.
4. An officer shall not carry a department issued ~~firearms~~ handgun while working secondary employment.
5. Any officer found to have carried a department issued ~~firearm~~ handgun while off duty without written consent may lose authorization to be armed and may face other disciplinary actions up to and including termination of employment.

P. Authorized Firearms, Ammunition and Holsters.

1. An officer may only carry and use the firearm and ammunition that are approved by the AOC as their duty weapons.
2. The chief probation officer or director of juvenile court services shall ensure a database of each firearm serial number is maintained with the probation department.
3. The department shall maintain records of all firearms carried by on duty officers.
4. Only probation department approved armorers shall make adjustments to the firearm except for personalized grip or grip adapter that may be added by the officer.
5. All safety devices manufactured into the firearm shall be intact and functioning at all times.
6. An officer may use another officer's firearm in the case of a life-threatening emergency. An officer may only use another firearm on the range, under the direct supervision of a CFI.
7. The chief probation officer or director of juvenile court services shall approve holsters for the authorized ~~firearms~~ handgun based on guidelines issued by the AOC.
8. An officer shall qualify for use of a handgun with the approved holster or holsters prior to initiating use and upon re-qualifying.
9. The CFI shall ensure that only factory ammunition is used. The use of reload ammunition is prohibited.
10. An officer shall only carry ~~the~~ approved and authorized firearms.

11. An officer shall have in their possession their department issued badge, identification card and firearms authorization card whenever carrying a firearm.
12. An officer shall ensure that the firearm is fully loaded when it is carried or worn.
13. The chief probation officer or director of juvenile court services may grant written approval for an officer on official business to carry an issued firearm when traveling out of jurisdiction. The officer shall:
 - a. Carry the written approval at all times while traveling;
 - b. Follow all federal, state, and local laws and regulations; and
 - c. Comply with the carrier's requirements.

Q. Firearms Safety and Storage.

1. An officer authorized to carry a firearm shall observe and practice the following safety regulations:
 - a. All firearms shall be handled safely and treated as a loaded firearm until the handler has personally proven otherwise;
 - b. An officer shall only dry-fire, clean, exhibit, load or unload in a safe manner and environment;
 - ~~e. An officer shall ensure that any unholstered firearm that is brought into a probation department facility is unloaded. This does not include an officer's duty weapon for transfer to safe storage;~~
 - ed. An officer shall ensure that a firearm equipped with any safety device is carried in a "safe" position; and
 - ed. An officer shall ensure that the weapon is empty of ammunition prior to cleaning or inspection.
2. An officer shall ensure that the firearm and ammunition are stored in a designated safe and locked place that is not accessible to unauthorized persons when not carrying or wearing the firearm.
 - a. An officer shall not keep a firearm in the office overnight unless secured in a department approved firearms storage unit.
 - b. An officer shall not store a firearm overnight in any vehicle.

- c. An officer shall ensure that a firearm is kept in a secure and safe place where the firearm is not accessible to other individuals, particularly children.
 - d. An on-duty armed officer not wanting to carry a firearm into a residence or public building, shall temporarily store the firearm in a locked automobile trunk or glove compartment.
 - (1) An officer shall ensure that the automobile is locked if the firearm is stored in a glove compartment or if the trunk is accessible through the passenger area.
 - (2) An officer shall exercise care that the placement of the firearm in the glove compartment or trunk is not observed by the public.
 - (3) The chief probation officer or director of juvenile court services may approve alternative arrangements, such as secure lock boxes ~~under the seat~~.
 - e. An officer shall follow facility procedures for safekeeping and temporary storage of their firearm, ammunition, and other prohibited items at all correctional and court facilities.
3. An officer shall immediately notify their supervisor of any unauthorized use, handling, or discharge of a department issued firearm. Chief probation officers or directors of juvenile court shall ensure that all discharge investigations follow criteria provided in subsection M of this code section.
 4. An officer failing to comply with the safety and storage regulations may be subject to disciplinary action, which may include the loss of authorization to carry a ~~firearm~~ handgun.

R. Stolen or Lost Firearm.

1. An officer shall immediately file a report with local law enforcement upon discovery that a firearm is missing.
2. An officer shall immediately report a stolen or lost firearm to the supervisor, who will in turn notify the chief probation officer or director of juvenile court services.
3. An officer shall provide a written report to the supervisor no later than the close of that business day. The supervisor shall review the report and forward it to the chief probation officer or director of juvenile court services. Upon review the chief probation officer or director of juvenile court services shall forward the report to an AOC probation safety specialist.
4. The chief probation officer or director of juvenile court services shall discipline an officer who is found negligent in the loss of their department issued firearm. The discipline shall minimally consist of a letter of reprimand and may include the loss of authorization to carry a ~~firearm~~ handgun.

5. An officer shall reimburse the county or state in the event that a probation department firearm and related equipment is lost or damaged through negligence.

S. [No changes]

T. Approval for Warrants Officers or Fugitive Apprehension Officers to Carry Long Guns.

1. The chief probation officer may approve a warrants officer or fugitive apprehension officer who is a specialized non-case carrying officer assigned full-time to the duties of locating and arresting individuals on warrant status to carry a long gun. This approval shall be based upon the officer meeting the following criteria:
 - a. Is authorized to carry a handgun, pursuant to this code section.
 - b. Carries the department issued handgun while carrying the long gun;
 - c. Has successfully completed COPE approved long gun training; and
 - d. Is current with annual requalification standards for all authorized and approved firearms established by AOC.
2. The chief probation officer shall determine when an officer authorized to carry a long gun is restricted from carrying the long gun in the performance of certain duties.
3. Warrants officers or fugitive apprehension officers shall not carry a non-department issued long gun on their person at their job location or in their vehicle, while on official business except with prior approval and authorization of the chief probation officer.
4. The long gun and ammunition must be consistent with standards established by AOC.
5. The chief probation officer may temporarily suspend or revoke an authorization to carry a long gun for cause.
6. The carrying of long guns off duty is prohibited, unless prior approval is given by the chief probation officer for range practice.

U. Required Reporting For Warrants Officers or Fugitive Apprehension Officers.

1. Warrant officers or fugitive apprehension officers who point a firearm at an individual, but do not discharge the firearm while on duty, shall submit a written report to their supervisor no later than the next business day.
2. The supervisor shall immediately send the written report through the departmental chain of command to the chief probation officer.
3. Failing to comply with reporting requirements may be cause for disciplinary actions, up to and including termination of employment.