

IN THE SUPREME COURT OF THE STATE OF ARIZONA

In the Matter of:	)	
	)	
ARIZONA CODE OF JUDICIAL	)	Administrative Order
ADMINISTRATION § 5-306: FIREARMS	)	No. 2020 - <u>06</u>
	)	(Affecting Administrative
	)	Order No. 2017-15)
_____	)	

The above-captioned provision having come before the Arizona Judicial Council on December 12, 2019 and having been approved and recommended for adoption.

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

IT IS ORDERED that the above-captioned provision, attached hereto, is adopted as a section of the Arizona Code of Judicial Administration.

IT IS FURTHER ORDERED that all court-employed security officers who are authorized by local order to be armed as of the effective date of this Order are authorized to be armed until they attend and complete the firearms training program required by this section.

IT IS FURTHER ORDERED that all court-employed security officers shall complete the firearms training program required by this section no later than December 31, 2020.

Dated this 8th day of January, 2020.

ROBERT BRUTINEL
Chief Justice

ARIZONA CODE OF JUDICIAL ADMINISTRATION

Part 5: Court Operations

Chapter 3: Court Security

Section: 5-306: Firearms

A. Definitions. The following definitions apply to this section:

“Administrator” means superior court administrator, justice court administrator, or municipal court administrator.

“Deadly force” means “force that is used with the purpose of causing death or serious physical injury or in the manner of its use or intended use is capable of creating a substantial risk of causing death or serious physical injury” as provided in A.R.S. § 13-105(14).

“Department” means the office, department, or division of the court responsible for providing court security.

“Director” means the Administrative Director of the Administrative Office of the Courts or the director’s designee.

“Firearm” means a handgun.

“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 director for use by trained and authorized 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 actions necessary to cause a discharge.

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

“Officer” means any court employee who provides court security, whether part- or full-time.

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

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

“Presiding judge” means, for superior court, justice courts, and consolidated justice/municipal courts, the superior court presiding judge or a designee who may be an administrator; for

municipal courts, the municipal court presiding judge or a designee who may be an administrator; for appellate courts, the chief justice or chief judge or a designee.

“Security director” means the individual designated by a court presiding judge to oversee security operations, whether part- or full-time.

“Serious physical injury” means “physical injury that creates a reasonable risk of death, or that causes serious and permanent disfigurement, serious impairment of health or loss or protracted impairment of the function of any bodily organ or limb” as provided in A.R.S. § 13-105(39).

“Tactical conditions” 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 an authorized 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.

B. Applicability. This code section applies only to certified court security officers authorized by the presiding judge to carry and use a firearm while on duty and under the conditions specified in this section.

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

D. Administration.

1. Responsibilities of the Director. The director shall:

- a. Approve uniform, standardized and statewide firearms training academies and annual re-qualification for officers.
- b. Approve the firearms and ammunition officers are authorized to use as their duty weapons.

2. Responsibilities of the Presiding Judge.

- a. The presiding judge may require that certain job assignments are staffed by an armed officer.
- b. The presiding judge shall determine when an officer authorized to carry a firearm is restricted from carrying a firearm in certain job assignments or in the performance of certain duties.
- c. The presiding judge shall document and certify on a form approved by the director, prior to granting authorization, that the officer has:

- (1) Completed psychological testing meeting minimum standards established by the director;
 - (2) Completed a national criminal history records check;
 - (3) Successfully completed and demonstrated proficiency in all required training;
 - (4) The officer is medically and physically able to perform the job duties of an armed officer;
 - (5) Successfully completed the firearms training academy with the handgun intended for use;
 - (6) Successfully completed a competency test and training course approved by the director; and
 - (7) Submit a form, approved by the director, attesting that:
 - (a) The officer agrees to submit to a director-approved psychological evaluation;
 - (b) The officer has no medical, psychological, or health condition including a physical or mental disability, substantially impairing their ability to responsibly carry a handgun or interfering with the safe use of or handling of a handgun;
 - (c) The officer is not addicted to alcohol or prescription drugs;
 - (d) The officer does not use unlawful narcotics or drugs;
 - (e) The officer agrees to submit to drug testing based on reasonable suspicion pursuant to departmental policy and procedures; and
 - (f) The officer shall abide by all ACJA requirements and department policies regarding handguns.
- d. The presiding judge may require that the officer submit to a polygraph examination to inquire about matters that would reasonably be the basis for not authorizing an officer to carry a handgun including, but not limited to 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 required to authorize an officer to be armed is at issue.

E. Required Firearm Training and Qualifications.

1. A certified firearms instructor (CFI) shall only use curriculum approved by the director 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) Judgmental shooting simulation; and
 - (5) Range safety.
 - b. Required instruction on the safe and effective use of authorized firearms.

2. The presiding judge shall provide range equipment including eye and ear protection for use during training and qualifications.
3. An officer's direct supervisor may give written authorization for the officer to use an authorized firearm for practice while off duty on a range approved by the presiding judge.
4. 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.

F. Authorization of Armed Officers.

1. Upon completion of the Court Security Officer Training Academy, and pursuant to approval by the presiding judge, an officer must complete the firearms training academy to become authorized to carry a firearm.
2. The firearms training academy shall include curriculum approved by the director presented by instructors approved by the director.
3. An officer wishing to maintain firearm authorization shall, each calendar year, attend at least eight hours of approved firearms practice conducted by a CFI approved by the director, and shall successfully complete a shooting proficiency skills evaluation conducted by a CFI.

G. Procedure for Denial, Temporary Suspension, or Revocation of Firearm Authorization.

1. The presiding judge shall deny authorization to carry a 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 protective order under federal law. See 18 U.S.C. § 922(g)(8).
2. The presiding judge may deny authorization to carry a handgun during any point of the screening and testing process based on the criteria stated in this section.
3. The presiding judge 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.
4. The presiding judge shall place 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.
5. The presiding judge shall deny, revoke, or suspend authorization to carry a handgun for the following reasons:
 - a. Results from the psychological evaluation indicating unfitness to carry a firearm;

- 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;
- 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 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;
- 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 resulting from 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 and render the officer unfit to carry a firearm;
- 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 where carrying a handgun is not authorized;

- 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 security director to believe that arming the officer could place that officer, other staff, or the public in jeopardy; or
 - t. Failure to successfully complete the annual re-qualification program and participate in required practice sessions.
- 6. All screening and testing records shall be maintained in the officer's personnel file and remain confidential as required by law.
 - 7. An officer wishing to have their authorization reinstated after revocation may submit a written request to the presiding judge after one year. The officer shall clearly state the reasons for reinstatement of the authorization.

H. Handgun Authorization.

- 1. An officer granted authorization to carry a 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 handguns. The authorized officer shall agree to adhere to all state laws regarding the carrying and use of 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 handgun authorization.
- 3. An officer granted authorization to carry a handgun shall successfully complete the annual re-qualification and participate in all required practice sessions.
- 4. The presiding judge 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 Firearm. An officer authorized to carry and use a firearm is prohibited from carrying an authorized firearm while on duty 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. When the presiding judge directs the officer not to carry a firearm or revokes the officer's authorization to carry a firearm.

J. Authority to Unholster Handgun. An officer shall only unholster their handgun, under the following conditions and as authorized in this section.

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

K. Required Reporting of Handgun Unholstering in Course of Duty.

1. Except for training or to secure a handgun or when requested by a CFI for purposes of maintenance, or inspection, an officer who unholsters, but does not discharge a handgun while on duty, shall submit a written report to the officer's supervisor no later than the next business day.
2. The supervisor shall immediately send the written report through the chain of command to the security director.
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 as provided for in ACJA § 5-305.
2. An officer shall not:
 - a. Unholster a handgun 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 director-approved training.

M. Responses to Discharges and Firearm Involved Incidents. The presiding judge shall respond to discharges and firearms involved incidents according to the following criteria:

1. Unintentional discharge without injury. The presiding judge shall ensure the following:
 - a. The security director conducts an administrative investigation and shall not be required to conduct a formal shooting inquiry board. This type of discharge does not necessarily require an immediate response.
 - b. The presiding judge shall notify the director within 72 hours when an unintentional discharge without injury has occurred.
 - c. The presiding judge shall have the authority to administer any discipline or remedial measures according to the local personnel procedures.
2. Training-related unintentional discharge without injury. The presiding judge may follow the requirements of this section regarding a training-related unintentional discharge without injury.

3. Unintentional discharge with injury or intentional discharge. The court security director shall defer the scene and investigation to the appropriate law enforcement agency. The security director shall conduct an internal administrative investigation of any intentional discharge of a firearm or unintentional discharge of a firearm with injury.
 - a. The improper use of a firearm may result in sanctions, criminal, or civil action.
 - b. The security director shall ensure that when the officer's weapon is held as part of an investigation, a replacement firearm is issued as soon as is reasonable unless authorization to carry a firearm has been revoked or suspended.
4. Each court that permits its officers to carry firearms shall have policies and procedures for the internal administrative investigation and responses of all firearm discharges or firearm involved incidents. Each court's policies and procedures shall include, but are not limited to, the following:
 - a. Direction as to who shall be notified;
 - b. Direction as to who shall be called to the scene;
 - c. Notification to the director and appropriate law enforcement;
 - d. Notification to the court's city, county, or state risk management, as appropriate;
 - e. Notification to county attorney and attorney general;
 - f. Establishment of a critical incident response team, to include a member to aid and assist an officer directly following a line of duty shooting or other firearms involved incident. This does not include unintentional discharge without injury;
 - g. Notification of a critical incident response team representative or representatives; and
 - h. Procedures to place an officer on administrative leave following a shooting or discharge.
5. The presiding judge shall ensure all officers are trained in policies and procedures regarding firearms discharges or firearms involved incidents.

N. Authorized Firearms, Ammunition and Holsters.

1. An officer may only carry and use the firearm and ammunition that are approved by the administrative director.
2. The presiding judge shall ensure a database or record of each firearm serial number is maintained with the court.

3. The security director shall maintain records of all firearms carried by on duty officers.
4. Only director-approved armorers shall adjust 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 always be intact and functioning.
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 administrative director will issue guidelines for approved holsters for authorized handguns.
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 firearms approved by the administrative director.
11. An officer shall have in the officer's possession the court-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.

O. Firearm 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;
 - c. An officer shall ensure that a firearm equipped with any safety device is carried in a "safe" position; and
 - d. 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 firearms storage unit approved by the security director.
 - 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 officer shall follow facility procedures for safekeeping and temporary storage of their firearm, ammunition, and other prohibited items at all court facilities.
3. An officer shall immediately notify the security director of any unauthorized use, handling, or discharge of an authorized firearm. The presiding judge shall ensure that all discharge investigations follow criteria provided in this 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 handgun.

P. 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 officer's supervisor.
3. An officer shall provide a written report to the officer's supervisor no later than the close of that business day. The supervisor shall review the report and forward it to the presiding judge.
4. The presiding judge shall discipline an officer who is found negligent in the loss of an authorized firearm. The discipline shall minimally consist of a letter of reprimand and may include the loss of authorization to carry a firearm.
5. An officer shall reimburse the city or county if a firearm and related equipment is lost or damaged through negligence.

Q. Firearm Care and Maintenance.

1. An officer shall be responsible for cleaning and inspection of the officer's issued firearm.
2. An officer shall not clean a firearm on court property other than in a designated area.

3. The local court shall retain ownership of all firearms and ammunition purchased and provided to an officer.
4. An officer shall return the firearm and ammunition to the security director upon request.
5. An officer shall present the firearm to the CFI for inspection upon the instructor's request.