

# Policy 312

## Firearms

### 312 PURPOSE AND SCOPE

This policy establishes procedures for the acquisition, use, and documentation of training in the use of firearms. The Chief Investigator or his or her designee shall approve all Butte County District Attorney's Bureau of Investigation firearms before they are acquired and utilized by any investigator employed by the District Attorney's Office.

### 312.1 AUTHORIZED WEAPONS

No firearms will be carried that have not been thoroughly inspected by the range master. Except in an emergency, or as directed by a supervisor, no firearm shall be carried by a member who has not qualified with that class of weapon at an authorized range training session.

Investigators are authorized to carry, as their primary duty weapon, any handgun which has been inspected and approved by the range master. The range master shall only approve handguns of good quality and workmanship chambered for one of the following calibers:

.40 Cal.  
.45 Cal.  
9 mm  
.357  
.38

### 312.21 Specialty Assignment Carry

Investigators assigned to work in an undercover (UC) capacity may request permission to utilize smaller calibers as their primary carry during direct UC operations. Any request will not be authorized unless the investigator(s) can show he/she has at least two dedicated officers providing immediate and sufficient cover during the undercover operation. A case agent shall not suffice as a dedicated cover officer. When proper cover officers are available the UC officer may be authorized to carry the following calibers:

.380

.32, .25, or .22 caliber handguns should not be considered a primary firearm and their use should be for secondary purposes only. Any use as a primary should be thoroughly discussed with operational team members to ensure proper officer safety.

### 312.22 AUTHORIZED SECONDARY WEAPONS

Investigators desiring to carry a secondary weapon are subject to the following restrictions:

- (a) The weapon shall be of good quality and workmanship, which has been inspected and approved by the range master
- (b) The purchase of the weapon and ammunition shall be the responsibility of the investigator. On a case-by-case basis and depending on availability, the range master may issue a department owned secondary weapon to an investigator.
- (c) The weapon shall be subject to inspection whenever deemed necessary.
- (d) Ammunition shall be of good quality and factory loaded.

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(e) Personnel shall qualify with the secondary weapon under range supervision. Investigators must demonstrate their proficiency, safe handling and serviceability of the weapon.

(f) Personnel shall provide written notice of the make, model, serial number, and caliber of a second weapon to the range master.

## **312.23 AUTHORIZED OFF-DUTY WEAPONS**

The carrying of firearms by investigators while off duty is permitted by law. The District Attorney or Chief Investigator may suspend an investigator's peace officer powers should circumstances dictate (e.g., administrative leave). An investigator whose peace officer powers have been suspended is not authorized to carry a concealed firearm while off duty.

Investigators who choose to carry a firearm while off duty will be required to meet the following guidelines:

(a) The weapon shall be of good quality and workmanship

(b) Unless a department- issued duty weapon is carried, any purchase of an off duty weapon and ammunition shall be the responsibility of the investigator

(c) Unless reasonable circumstances allow otherwise, the weapon(s) shall be carried out of sight in the general public and in such a manner as to prevent accidental cocking, discharge, or loss of physical control. Open carry, while on public but remote areas, where open carry is deemed acceptable, is not subject to this subsection, (i.e. wildlife areas, forestry lands, etc.)

(d) The range master shall assure the investigators are proficient in handling and firing the class of weapon and it will be carried in a safe manner. The weapon shall be subject to inspection whenever deemed necessary. The investigator will successfully qualify with the class of weapon prior to it being carried and annually thereafter. The range qualification dates will be specified by the range master, however continuous training aside from departmental training is encouraged.

(e) If any member desires to own more than one weapon utilized while off duty, he/she may do so, as long as the investigator meets all the requirements set forth in this policy for each weapon used.

## **312.3 AMMUNITION**

Investigators shall carry only department-authorized ammunition. Ammunition should be of good quality and factory loaded. Low cost ammunition, such as, but not limited to; Blazer, Sellier-Bellot, Armscor, Focchi, or similar, shall not be used while on duty and at no times in a department issued firearm due to their higher probability of misfires and their propensity to cause excessive weapon fouling. This does not prevent such ammo from being used during firearm practice when firearm is immediately cleaned after use.

## **312.4 ALCOHOL & DRUGS**

Weapons shall not be carried by any investigator who has consumed an amount of an alcoholic beverage or taken any drugs that would tend to adversely affect the investigator's senses or judgment. Investigators are expected to use their best judgement when carrying firearms and consuming any amount of alcohol.

## **312.5 LASER SIGHTS**

External laser sights may only be installed on a weapon carried on duty after they have been examined and approved by the range master. Internal lasers (e.g. guide rod) are not permitted as any structural failure could result in a malfunction of the firearm.

(a) Any approved laser sight shall only be installed in strict accordance with manufacturer specifications.

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(b) Once laser sights have been properly installed on any weapon, the investigator shall qualify with the weapon to ensure proper functionality and sighting of the weapon prior to carrying it.

Except in an approved training situations, an investigator may only activate a laser sight when the investigator would otherwise be justified in pointing a weapon at an individual or other authorized target.

## **312.6 WEAPON LIGHTS**

The use of a flashlight or other illumination device attached to the firearm is permitted after inspection by the range master or his/her appointee and under the following restrictions:

- (a) The light produces a minimum of 80 lumens
- (b) The activation switch does not require finger manipulation of the shooting hand to activate the light
- (c) The light is not to be used as a primary flashlight for general purpose illumination, only for the illumination of a potential threat.

## **312.7 SAFE HANDLING OF FIREARMS**

The intent of this policy is to promote proper firearm safety on and off duty. Investigators shall maintain the highest level of safety when handling firearms and shall consider the following:

- (a) Investigators shall not unnecessarily display or handle any firearm.
- (b) Investigators shall be governed by all rules and regulations pertaining to the use of the range and shall obey all orders issued by the range master. While on the range, investigators shall not dry fire or practice quick draws except under range master supervision or direction. Dry firing is an encouraged practice when away from the range given the investigator does the following:
  - 1. Ensures the firearm is unloaded and all magazines are empty.
  - 2. Points the firearm in a safe direction.
  - 3. Practices in an appropriate setting that would not reasonably cause citizen concern
- (c) Any investigator who discharges his or her firearm (intentionally or accidentally, on or off-duty), shall advise his or her supervisor of the discharge as soon as circumstances permit. The investigator shall also complete a written report documenting the discharge as soon as practical. A report prepared in conjunction with an investigation being conducted by the Butte County Officer-Involved Shooting & Critical Incident Protocol Team will satisfy the reporting requirement discussed above. The provisions of this sub-section are not applicable to discharges occurring during training exercises.
- (d) Investigators shall ensure their firearms are regularly cleaned and maintained in an operable condition. Cleaning equipment shall be provided at every departmental range training and/or qualification.
- (e) Any loading or unloading of a firearm shall be in a safe manner with the firearm always being pointed in a safe direction.
- (f) Investigators shall store firearms in a secure location, and in compliance laws pertaining to the storage of firearms, to prevent theft or unauthorized use.
- (g) Unless issued to them by the Department, investigators shall not use any automatic weapon, heavy caliber rifles, gas or other types of chemical launching weapon, except with appropriate training and approval by the department. The does not pertain to chemical dispersing devices pursuant policy 308.a

## **312.8 FIREARMS QUALIFICATIONS**

All sworn personnel are required to qualify annually with their duty weapon on an approved course of fire. The range master shall keep accurate records of annual qualifications, repairs, maintenance, training, or as directed by the Training Manager. In addition to regular qualification schedules, the range master shall

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be responsible for providing all sworn personnel with annual practical training designed to simulate field situations. At least annually, all personnel carrying a firearm will receive training on the Department Use of Force policy and demonstrate their knowledge and understanding. The authority to carry a firearm bears an increased responsibility and it is imperative investigators show continuous proficiency with firearms. Investigators are encouraged to attend all quarterly trainings.

## **312.9 NON QUALIFICATION**

If any investigator is unable to qualify for any reason, including injury, illness, duty status, or scheduling conflict, that investigator shall notify his or her immediate supervisor prior to the end of the required shooting period. Investigators who repeatedly fail to qualify will be relieved from field assignment and appropriate disciplinary action may follow.

Investigators who fail to qualify on their first shooting attempt will be permitted to immediately re-take the qualification course if he/she feels they could readily pass. If the investigator feels he/she needs additional training they will be provided up to 1 hr. of remedial training prior to their re-test. If the investigator fails the second attempt he/she will be permitted another hour of remediation and then be allowed to make a 3<sup>rd</sup> attempt. Any failures after the third attempt will result in the removal of authority to be armed. If the authority to carry is removed the following requalification steps will be taken:

1. Within one week following the third failure (or as soon as possible), the investigator will receive no less than one hour of remediation. Investigators will be encouraged, but not required, to practice on their own.
2. After a minimum 24 hr. period from the remediation training the investigator will have a fourth chance to shoot the qualification course, no warm-up or remediation training will be provided immediately prior to the qualification attempt.
3. If the investigator does not pass they will be provided up to 1 hr of remediation training and be allowed to shoot the qualification for a fifth time.
4. After a fifth failure, the range master will inform the Chief Investigator.
5. If an investigator receives a qualifying score on the fourth or fifth opportunity, he or she will be authorized to carry their firearm, however will be placed on a performance improvement plan.

## **312.9.1 PERFORMANCE IMPROVEMENT PLAN (PIP)**

Upon placement on a PIP, the investigator will be required to attend monthly trainings for a minimum of three months. At each training the investigator will be required to pass a qualification course of fire. At any time if he/she is unable to pass on the first attempt, their authority to carry will be suspended and the investigator will begin with requalification step one.

Removal from a PIP will require three successive, "cold" monthly qualifications. Upon three qualifications, the investigator must then qualify two more times; once three months after the three monthly qualifications and another six months later, for a complete training period of one year. Upon successful completion the investigator will resume a regular training/ qualification cycle. During a PIP the investigator will be required to attend all scheduled firearm training.

The Chief Investigator may choose to assign an investigator on a PIP to a modified work program if the investigator is not authorized to carry a firearm.

Investigators who show continual poor performance in qualifying with their firearm, (i.e. more than one firearm PIP) could be considered as failing to meet the minimum requirements of an Investigator I or II, which may subject them to negative employment action.

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## **312.10 RANGEMASTER DUTIES**

The range will be under the exclusive control of the range master. All investigators attending will follow the directions of the range master. The range master will maintain a roster of all investigators attending the range and will submit the roster to the Chief Investigator, or his/her designee, after each range date. Failure of any investigator to sign the range qualification roster may result in non-qualification.

The range master has the responsibility of making periodic inspection, at least once a year, of all duty weapons carried by investigators to verify proper operation. The range master has the authority to deem any privately owned weapon unfit for service. The investigator will be responsible for all repairs to his or her personal weapon and it will not be returned to service until inspected by the range master.

## **312.6 MAINTENANCE AND REPAIR**

Firearms carried on duty shall be maintained in a clean, serviceable condition. Since the use of personally owned weapons is at the option of the individual investigator, that investigator will be responsible for the furnishing, maintenance and repair of such weapon. All weapons should be immediately cleaned after range or other firing and always carried in a clean and fully loaded condition.

### **312.6.1 REPAIR OR MODIFICATIONS OF DUTY WEAPONS**

A certified armorer, authorized by the range master, shall be the only person authorized to repair or modify any department-owned weapon. All repairs and/or modifications of department issued weapons not performed by the range master must be approved in advance by the range master and accomplished by a department approved gunsmith. Any repairs or modifications to the investigator's personally owned weapon shall be done at his or her expense and must be approved by the range master.

### **312.6.2 INSPECTION AND STORAGE**

Handguns shall be inspected regularly, and upon access or possession by another person to determine if the weapon is loaded. The member shall ensure that the firearm is carried in the proper condition and loaded with approved ammunition. Handguns may remain loaded if they are secured in an appropriate holster.

Members should not store their firearm in the trunk of their vehicle unless secured in a mounted lock box or other locking device. Members should treat this lock box as a temporary storage method and should remove firearms when the vehicle will remain parked within a gated or residential driveway for greater than 24 hrs. If the vehicle is parked on the street when out of service, firearms shall be removed. When placing their weapon in the trunk lock box, members should ensure they do so discretely and out of sight of the public.

### **312.6.3 STORAGE AT HOME**

Members shall ensure that 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. Members shall not permit department-issued firearms to be handled by anyone not authorized by the Department to do so. Members should be aware that negligent storage of a firearm could result in civil and criminal liability (Penal Code § 25100).

## **312.7 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 personnel who intend to be armed while flying on a commercial air carrier or flights where screening is conducted (49 CFR 1544.217):

- (a) Investigators wishing to fly while armed must be flying in an official capacity, not for vacation or pleasure purposes.
- (b) Investigators must carry their Department identification card and California driver's license. Additionally, investigator(s) when requested, must present their Identification to airline officials when requested.

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(c) An official letter signed by the Chief Investigator authorizing armed travel must accompany the investigator(s). The letter must outline the investigator's necessity to fly armed, must detail his/her itinerary, and should include that the investigator(s) has completed the mandatory TSA training for law enforcement officer(s) flying while armed.

(d) Investigators must have completed the mandated TSA security training, covering officers flying while armed. The training shall be given by the department appointed instructor.

(e) It is the investigator's responsibility to notify the air carrier in advance of the intended armed travel. This notification can be accomplished by early check-in at the carrier's check-in counter.

(f) Discretion must be used to avoid alarming passengers or crew by displaying a firearm. Investigators 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.

(g) Investigators should not surrender their firearm to anyone, but should try to resolve any problems through the flight captain, ground security manager, or other management representative of the air carrier.

(h) Investigators shall not consume alcoholic beverages while aboard an aircraft, or within eight hours prior to boarding an aircraft.

## **312.8 CARRYING FIREARMS OUT OF STATE**

Pursuant to Title 18 United States Code 926B, full time investigators and qualified retired investigators (See: Policy Manual § 220) of this department are authorized to carry a concealed firearm in all other states subject to the following conditions:

(a) The investigator shall carry his/her Department identification whenever carrying such weapon.

(b) The investigator will remain subject to this and all other Department and may not be the subject of any current disciplinary action.

(c) The investigator may not be under the influence of alcohol or any other intoxicating or hallucinatory drug.

(d) Investigators are cautioned that individual states may still restrict or prohibit carrying firearms in certain areas such as government buildings, property and parks.

## **312.9 OUT OF STATE PEACE OFFICERS IN CALIFORNIA**

Pursuant to Title 18 United States Code 926C, any full-time or retired out-of-state peace officer is authorized to carry a concealed firearm in California subject to the following conditions:

(a) The officer shall have in his/her possession a photographic identification from the issuing law enforcement agency which indicates that the officer has met the state's training and qualification standards within not less than one year prior to the date of issuance.

(b) The officer may not be under the influence of alcohol or any other intoxicating or hallucinatory drug.

(c) Out-of-state peace officers are not authorized to carry a concealed firearm into government buildings or areas otherwise expressly restricted by state or local law.