

THE PARTICIPATOR

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NORTH DAKOTA
NDIRF
INSURANCE
RESERVE FUND



Photo Credit: Dickinson Police Department.

Dear NDIRF Member,

Let’s talk about your risk pool. If you’re thinking, “My what?,” you’re likely not alone.

Along with 2,597 North Dakota local government entities, your entity helps form the North Dakota Insurance Reserve Fund (NDIRF), a nonprofit government risk pool through which your entity obtains liability, auto, and public assets coverages.

We refer to each entity that participates in the NDIRF as a member. This term carries the meaning that your entity is a part of a community – a group that your entity has invested in and, in turn, it has invested in your entity.

For the NDIRF’s Board of Directors

and employees, the term member also carries a meaning of purpose.

As each year passes, the local government liability insurance crisis that occurred in 1986 becomes more distant. The sting of the volatile liability insurance market has subsided, and your entity’s fears about being able to access liability, auto, and public assets coverages has faded.

Have you ever wondered why or how these wounds healed? Because your entity, along with many others, formed the NDIRF in the midst of this aforementioned crisis.

The advantages of being an NDIRF member are many, including:

- No general rate increase has been filed since 2017. Because

losses are considered only within our pool’s activity, external loss activity doesn’t influence our rates as much as other coverage providers’ rates.

- Achieved over \$30 million in 2023 of Members’ Equity. This number, which represents our pool’s value, provides an exceptionally high confidence level from outside actuaries regarding our ability to pay future obligations.
- Members have continued to engage more and more in risk mitigation tools available through NDIRF membership. In 2023, members completed: 1106 defensive driving courses, offered free to NDIRF members; 1,478 LocalGovU online local government professional



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development and safety courses, offered free to NDIRF members; 112 property surveys completed in partnership with agents, members, and NDIRF employees, helping to ensure North Dakota State Fire and Tornado Fund property is adequately covered.

As we move through the second half of this year, we look forward to serving you, our members, and together accomplishing more!

Sincerely,

NDIRF Management Team

Nora Frueh, CFO

Vance Krebs, CIO

Corey Olson, Director of Member Services

Keith Pic, Director of Claims

Jeff Tescher, Director of Underwriting

Cover Photo: Dickinson Police Department's Southwest Tactical Team (SWTT) conducts a SWAT demo at the 2023 National Night Out community event. The team is a multi-jurisdiction, regional-response SWAT team for all of southwest North Dakota. Photo Credit: Dickinson Police Department

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HOW TO HANDLE THE “FIREPROOF” EMPLOYEE

Provided by **Brian D. Schmidt**

Attorney at Law and Partner at Smith Porsborg Schweigert, Armstrong, Moldenhauer & Smith

Few things frustrate employers more than when an “at-will” employee takes intentional steps to become “fireproof” (i.e. engage in a “protected activity”) solely to avoid their imminent termination. You may be thinking, North Dakota has “at-will” employment, so how is that possible?



2001 ND 73, ¶ 32, 625 N.W.2d 241. For example, an employee cannot be subjected to an adverse employment action simply because they seek workers compensation benefits. See *Id.*

Sometimes, a problem employee will attempt to engage in a “protected

activity” to become “fireproof.” For example, as an employer, you place a problem employee on a performance improvement plan. The employee knows their termination is likely coming. They claim their poor performance is related to a workplace injury and seek WSI benefits or claim you engaged in unlawful discrimination as a means of protection. Their performance continues to be substandard and there is no way you can keep this problem employee employed. What can you do? On one hand, you need to get rid of this employee for the sake of your operation, on the other hand, you do not want to get sued.

In North Dakota, at-will employees may generally be terminated at any time for any reason; however, an employer cannot terminate an employee “if the employer’s actions contravene a clear statement of public policy in a constitutional or a statutory provision.” *Vandall v. Trinity Hospitals*, 2004 ND 47, ¶ 11, 676 N.W.2d 88. In other words, an employer cannot take an adverse employment action against an employee because they engaged in a “protected activity.” *Id.* An employee engages in a “protected activity” when they: 1) make a good faith report of a violation or suspected violation of law to their employer, government body, or law enforcement official; 2) are requested by a public body or official to participate in an investigation, hearing, or inquiry; or 3) refuse an employer’s order to perform an action the employee believes violates a law, rule, or regulation provided they have an objective basis in fact for that belief and convey as much to their employer. N.D.C.C. § 34-01-20(1). “At-will” employees also have other limited protections if they can establish their termination was in retaliation for complying with a clear public policy. *Dahlberg v. Lutheran Social Services of North Dakota*,

2001 ND 73, ¶ 32, 625 N.W.2d 241. For example, an employee cannot be subjected to an adverse employment action simply because they seek workers compensation benefits. See *Id.*

Fortunately, the law does not operate to provide problem employees with absolute protection when they engage in a “protected activity.” It is only part of the equation. To be successful in a retaliation claim, the employee must not only show they engaged in a protected activity, but must also show “that activity was causally related” to their adverse employment action. *Dahlberg*, 2001 ND at ¶ 35. Even if they do so, an employer is still not liable if they establish the adverse action was motivated by a legitimate, nonretaliatory reason. *Heng v. Rotech Medical Corp.*, 2004 ND 204, ¶ 37, 688 N.W.2d 389.

If you need to take adverse action against a problem employee who attempts to become “fireproof,” you need to be prudent. Ask yourself the following questions: 1) Do I have documentation to support a legitimate reason for termination? 2) Can I explain my rationale for termination without any reference to the protected activity? 3) Would I terminate someone else for engaging in the exact same conduct who did not engage in a “protected activity?” If the answer any of these questions is “no,” then do not move forward. However, if the answer to all of these questions is “yes,” then you will be best served by contacting legal counsel before making a final determination. Lawyers will evaluate the documentation, test you on your rationale, and explain the risks. Ultimately, you will need to ensure your evidence shows the employment decision is legitimate and not motivated by the employee’s attempt to become “fireproof.”

These situations are often stressful and never easy. If you have done your work on the front end, you can rid yourself of a problem employee and maximize your chance of success in the event of a lawsuit.

COVERAGE TERMS DEFINED: WHAT IS A GOVERNANCE LIABILITY?

The NDIRF’s governance liability encompasses the legal and financial responsibilities of a local government entity’s elected officials and/or board members. Defined as any actual or alleged misstatement, misleading statement, act or omission, neglect, or breach of duty—including misfeasance, malfeasance, or nonfeasance—by a covered party, governance liability focuses on the actions or inactions that directly affect the entity’s governance and compliance. NDIRF governance coverage does not include personal injury liability or property damage liability.

In claims situations, these categories are often intertwined, and the examples below may fall into one or more of the categories depending on the facts of the situation. Coverage is dependent on the facts of the claim as it relates to Memorandum of Coverage language.

Misstatements and Misleading Statements

Governance liability includes instances where a covered party makes false or misleading statements that can deceive the public or convey a promise that is not kept. For example, inaccurate financial reporting or an elected official falsely representing information to influence the action of a private citizen.

Acts and Omissions

Acts refer to decisions and actions taken by governance

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members, while omissions cover failures to act when required. For instance, an official might be liable for denying a permit for a protest group they don’t agree with politically (an act) or for failing to act to cure a record defect (an omission).

Neglect and Breach of Duty

Neglect involves failing to fulfill responsibilities with due diligence and care. A breach of duty occurs when a covered party does not uphold their public duties required by the law, such as a county recorder refusing to file a deed when required by law.

Misfeasance, Malfeasance, and Nonfeasance

Misfeasance involves the improper performance of lawful actions, such as incorrectly condemning a building. Malfeasance is the commission of unlawful or wrongful acts, like refusing to honor a contract. Nonfeasance refers to the failure to perform a required duty, such as neglecting to enforce compliance with regulatory requirements.

Elected officials and/or board members who serve in governance roles must be vigilant and proactive in ensuring that their actions and decisions align with legal and ethical standards to mitigate the risks associated with governance liability.



The Dickinson Police Department Officers. Photo Credit: Dickinson Police Department.

MEMBER FEATURE:

DICKINSON POLICE DEPARTMENT

Written by Joanna Drennen, MASCM

NDIRF Marketing and Communications Manager, HR Collaborative Executive Director

Over the past several years, the Dickinson Police Department (Department) has captured the kinds of headlines that would make any law enforcement agency proud and, maybe more importantly, assure area residents its officers continuously seek ways to forge and strengthen community relationships and enhance their professional knowledge and skills.

The results from a quick online search include officer promotion announcements, which note the officer's years of Department experience; community events and fundraisers the Department is hosting or providing support for; and the leading-edge officer training its officers have completed.

"The Dickinson Police Department has set a great example



any local government entity can follow, demonstrating that investments in regular policy review and building a detailed training program encourage employee engagement regarding the importance of safety and risk management," NDIRF Director of Member Services Corey Olson said.

Dickinson Police Department + the NDIRF

The Department has partnered with the NDIRF to provide leading-edge officer training in recent years, including:

- **Northwestern University School of Police Staff & Command:** The Department hosted a 10-week in-person college-level course for experienced law enforcement officers in senior command positions. The course provides information on budgeting, communications and media relations, contemporary

policing, critical incidents, decision making, employee relations, employment law, evaluating products and services, executive image, grant writing, human resources and employee discipline, leadership principles, officer wellness, organizational behavior, strategic planning and policies, performance appraisals and job design, project management, recruiting, resource allocation, statistics, and traffic (accessed from <https://sps.northwestern.edu/center-for-public-safety/management/spsc.asp> on 19 June 2024).

- **National Tactical Officers Association (NTOA) SWAT Team Assessment:** The Department hosted a SWAT expert who completed an overall assessment, of its SWAT team, including policy, culture, and equipment, and provided the Department with a comprehensive report on what it's doing right and how it can improve.

Regarding the NTOA assessment, Dickinson Police Department Lieutenant Michael Hanel said, "That was a great partnership, and it was a great project, and we definitely appreciate NDIRF's support on that one."

More recently, the NDIRF sponsored from April 29-May 3, 2024, the Southwest Crime Conference's five-day Blue to Gold POST certified training conference in Dickinson that offered courses in advanced search and seizure, advanced traffic stops, advanced criminal investigations,

report writing, and courtroom testimony. The Southwest Crime Conference is a North Dakota law enforcement training organization led by some of the Department's officers. The organization's purpose is to host various law enforcement trainings for North Dakota officers, specifically those in the Southwest corner of the state.

Get the full story on the Southwest Crime Conference's Blue to Gold training conference on p. 15.

Meet Lieutenant Michael Hanel

Dickinson Police Department Lieutenant Michael Hanel's law enforcement career began just over 20 years ago, fulfilling a lifelong interest to serve people in his community.

"Helping people is the base element for anybody who wants to get into this line of work," he said. "You have to have the desire to help people and be the force for change, the force for good, and to protect the community."

His introduction to a career in law enforcement happened at a very young age.

"When I was in daycare as a kid, the brother of the daycare center owner was a Dickinson Police Officer, and I remember him stopping by and turning on the sirens and flashing the lights, and I was hooked," he remembered.

"In high school, I debated between pursuing a law enforcement or military career," he said.

He had wanted to fly Blackhawk



*Lt. Michael Hanel, Dickinson Police Department.
Photo Credit: Dickinson Police Department.*

helicopters for the North Dakota Army National Guard, but poor eyesight and subsequent corrective laser eye surgery, both of which at the time disqualified potential pilot candidates, settled the debate.

He graduated in 2004 with an associate degree in law enforcement from Lake Region State College in Devils Lake (N.D.) and later from North Dakota's Peace Officer Academy. His first job was in the summer of 2004 as a Medora Police Officer.

When an opening at the nearby Dickinson Police Department became available in the fall of 2004, Hanel, who was born and raised in Dickinson, was eager to return home.

"This is where I grew up, and I'm raising my family here now, so I'm motivated to stay in this area," he said. "Now, 20 years later, I'm still here and loving every minute of it."

Over the course of his career with the Department, Hanel has gained

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experience as a canine officer, SWAT (Special Weapons and Tactics) Operator and Team Commander, and, for the past six years, as Lieutenant.

His road to Lieutenant was preceded by a series of promotions, from Officer to Corporal, second in command on patrol shift, to Sergeant, patrol operations leader, and to Lieutenant. As Lieutenant, Hanel reports to the Department's Deputy Chief Matthew Hanson.

"I've really had so many opportunities to stretch my wings in this field because each division has different specialties that I could engage in," he said.

Though he retired from SWAT a few years ago, Hanel regards his time on the team as one of his most memorable experiences.

"I really enjoyed my time on SWAT serving in the Team Commander role because there's so much expected of it, but at the same time, it was an extreme challenge and just seeing a plan come to fruition and working out the way you intended it to work was very gratifying," he said.

"That was during the height of the boom, so we responded to some pretty interesting calls," he said. "That was an excellent experience."

Hanel explained the difference between SWAT roles is based on responsibilities. For example, Operators are tasked out, meaning they're responsible for executing specific actions within a plan such as

booting down doors or deploying gas within a residence.

"Team Commander gives a big picture view, ensuring our plan and tactical decisions comply with policy and are within the bounds of case law and century code," he said.

For preplanned events, the Team Commander is responsible for informing Operators and other stakeholders on how the mission will go and review contingency plans, which are designed to mitigate risk as much as possible.

Hanel said the type of work he is responsible for today keeps him mostly in the Department's office building. This work includes creating and distributing public information, responding to public information requests, overseeing the department's dispatch division and animal control unit (civilian division), and supporting the department's internal communication efforts, including employee onboarding and ongoing risk management training.

For the first couple of weeks after they've joined the Department, new officers move through an onboarding program before they transition into their role. On the first day of this program, and throughout its duration, Hanel reviews the Department's risk management and safety policies and procedures.

"I also share with them what I've learned, including the mistakes I've made, so the knowledge I've gained can be passed on to the

next generation of officers," he said. "Serving in the mentor role is currently where I draw the most satisfaction from my position, but when I was a patrol officer, and it seems very cliché, I enjoyed responding to calls and helping people."

For experienced officers, Hanel has worked over the past few years to offer a senior officer position, which was introduced in 2015. This position is merit-based and awarded to officers who meet specific criteria, including having three-years' experience at the department, involvement in an extra function (ex. SWAT, field training, etc.), attained a certain number of training hours, and attended certain specialized training.

Investing in Its Emotional Bank Account

The Department is led by Chief Joe Cianni who took the helm in February 2023. Hanel shared that following the selection of Cianni, the Department developed a new set of core values and mission statement that aligns with Cianni's vision. Cianni worked with the Department's employees to help select and craft these statements, ensuring they reflect the officers' and Department's goals.

"This exercise supports the transition to a new chief because it helps employees buy into the statements and understand the direction we're going," Hanel said. "It's futile if we're all going in different directions and not accomplishing the mission."

Hanel has worked for four different chiefs since joining the Department,

and while the values and statements change, there are consistent themes among them.

“The one thing that has stayed true, and I think it highlights itself, is that each set of statements emphasized community interaction and community relations,” he said. “We are very much a community driven department.”

Hanel explained the Department wouldn’t exist without its community members, including getting their help serving as witnesses and on jury pools.

“We have a big stake in investing in what we call an emotional bank account with the community,” he said. “We implement and host various programs to show the community we’re responsive and hold ourselves to a high standard, and that our officers are extremely professional and competent.”

Hanel acknowledged the Department may make unintended errors at times because it is, after all, a human organization, so their regular deposits into its community’s emotional bank account are also helpful should the Department need to make a withdrawal. At the time a withdrawal is made, Hanel shared the Department holds itself accountable and addresses internal changes that may need to be made to training, policy, or procedure.

SCHOOL RESOURCE OFFICERS

The Department hosts community engagement events or programs generally every week, and the events

range from small- to large-scale undertakings; however, it’s their established and routine events or programs that Hanel said help community members become most familiar with the Department’s officers.

One of these programs is its School Resource Officer (SRO) program, launched in the early 2000s.

“SROs are so needed because establishing the law enforcement-citizen relationship early on in someone’s life, in a student’s life, helps to form a shared trust and ensure future interactions in any capacity with law enforcement are positive,” he said. “They understand it’s not an ‘us’ versus ‘them’ mentality, and they feel free to approach us as a community partner rather than as an adversary.”

SRO officers lead D.A.R.E. (Drug Abuse Resistance Education) programs within the community’s schools to encourage positive decision-making, and a portion of D.A.R.E. also focuses on anti-bullying efforts. Participating D.A.R.E. students celebrate a year-end program graduation during which essay winners are announced and later taken out to lunch by the Department. The essay topic is about what the student learned while participating in the D.A.R.E. program.

In addition to the SRO program, the Department hosts Adopt-A-Cop programs at area elementary schools. While there’s a wide range of activities officers may host or perform during



LT Brandon Stockie (left) and Senior Officer Taylor Peters (right) participate in a recent “Click-it For Coffee” event at Market Place Coffee.

this program, one example is as simple as throwing around a football at recess with students.

“These little instances of interacting with students from a young age are paramount and has paid off in dividends,” he said.

Hanel shared the Department’s Spring calendar of events in 2024 has been jam-packed and listed off activities beyond its school involvement that demonstrate its community-mindedness, including:

- **Coffee With a Cop:** Hosted quarterly at various local coffee venues, this event gives community members and police officers the opportunity to get to know one another over conversation and a cup of joe.
- **Seatbelt Checks:** A seatbelt technician reviews children safety seat installations and determines if the seats are safely installed or how they could be better installed to improve child safety.
- **Cops and Bobbers:** Hosted at the Dickinson Dike in conjunction with the North Dakota Game and Fish Department’s free fishing weekend

and allows community members to cast a line alongside local law enforcement.

- **Daddy Daughter Dance:** Hosted by the Dickinson Police Association, this event is now in its fifteenth year, and its continued attendance growth has led the Association to offer three different nights for dance duos to attend this adorable fundraiser. The Dickinson Police Association is a non-profit organization through which the Department can raise funds for new and existing community events and resources, or obtain new gear, education, or training for the Department's officers.
- **Heroes Ball:** An annual fundraiser to support the Domestic Violence and Rape Crisis Center, Dickinson Police Association, and Dickinson Fire Department. This formal event features various speakers who share stories about their first responder experiences, bringing to the forefront the various, and sometime very stressful and dangerous, situations in which first responders intervene to help, and the crises faced by their fellow community members.
- **National Night Out:** According to the National Night Out website, this event "is an annual community-building campaign that promotes police-community partnerships and neighborhood camaraderie to make our neighborhoods safer, more caring places to live. National Night Out enhances the relationship between neighbors and law enforcement while bringing back a true sense of community.

Furthermore, it provides a great opportunity to bring police and neighbors together under positive circumstances" (accessed 13 June 2024 from <https://natw.org/about/>). This event continues to grow each year for the Department. Officers spend the night grilling burgers and brats and holding K-9 and SWAT demonstrations for attendees, and hosting a kid-friendly police car-themed bouncy/jumping inflatable.

- **Guns and Hoses Softball Game:** The Dickinson Police and Fire Departments face off in a softball duel to raise money for their respective associations. The annual game is played the third week of July.

"It's very much a packed calendar of sorts in terms of community involvement, but we know it pays off in dividends by making these small investments," Hanel said.

The Department also uses social media to connect with its community, broadcasting upcoming events and posting photos from past events, allowing others to see photos of officers interacting with attendees.

Though it's currently on hiatus, the Department has also hosted a podcast over the past year, bolstering its communication transparency by sharing behind-the-scenes activity happening within different areas of the Department. Its channel currently has over 1,000 subscribers who have tuned in to learn about officers' response to a scene, details or

information provided by the public that led to a successful arrest, and the changing law enforcement environment within their local community as well as across the state.

While a North Dakota law enforcement agency hosting its own podcast may seem cutting-edge, Hanel shared officers' bringing forward innovative ways to connect with community members is always encouraged.

The effects in 2010 of the oil field activity that struck the Dickinson community brought an influx of new faces to the community. The Department at the time focused on hiring to ensure its number of officers kept pace with its growing number of residents, resulting in a reduction of community engagement activities and programs.

"When we caught up on staffing, we were back to business as usual," Hanel said. "Shortly afterward, we had an officer bring forward the idea of Skate with a Cop. We rented three hours of ice, and businesses donated food and beverages, and community members spent some ice time with cops."

Maintaining a Safety Culture POLICY AND PROCEDURE

As head of the Department's Policy Committee, Hanel leads monthly meetings in which the Department's five-person administration team reviews a section of its policy manual, making sure policies are updated and address current or trending challenges faced by officers on patrol.

"It's a nonstop process because the policy is so in-depth, which it needs to be, so we invest a lot of time and attention to this process, but that effort pays off in the end if something big happens," he said.

After a new or updated policy has been finalized and the chief has signed it, the Department electronically distributes it to all officers, and their supervisor is tasked with discussing policy changes in-person to give officers the chance to ask any clarifying question.

"We make sure everybody is informed in the best possible manner," Hanel said.

The officers electronically sign policy acknowledgments via the Department's Lexipol portal, ensuring the Department maintains record of policy distribution and receipt.

"In Lexipol, officers see a split screen that features the former policy and alongside a marked-up new policy, so they can easily see the changes made," he said.

Hanel added the two main litigation sources agencies today face is defending their policy and their training.

"Times are changing, and agencies need to keep themselves legally resilient, and the best way to do so is by having a really strong policy, even if the department is small," he said.

TRAINING

As mentioned earlier, training begins

on an officer's first day on the job, moving through the Department's onboarding process led by Hanel.

The process begins with a review of the City of Dickinson's Safety Checklist, during which Hanel explains how to file a claim and report a near miss, and he provides information about how to mitigate risk.

"One of the questions I ask during new officer onboarding is, 'When's the last major U.S. airline crash you remember?'," he said. "The last one I remember is shortly after 9/11," he continued, sharing that, as a licensed pilot, aviation news is something he closely follows.

"The reason there aren't many airline crashes is due to the sophistication and thoroughness of the National Transportation and Safety Board's (NTSB) risk management process," he said. "When an accident occurs, they review it and look into the proximal and probable causes."

"It's a process we can very easily apply in regard to law enforcement incidents," he continued. "We review the chain of events leading up to the incident and ask ourselves what we can fix so the incident doesn't happen again."

All the Department's officers attend at minimum quarterly training sessions that address various law enforcement and employment topics in which

each session contains an element of safety.

"We always preach officer safety in everything we do," he said.

In addition to reviewing various training and policy and procedure documents, officers also prepare for patrol by participating in hands-on training.

Hanel explained the Department has implemented Force on Force training which immerses "officers in relevant scenario-based training as well as learn additional techniques to properly manage potentially life-threatening situations" (accessed



The Department's bike patrol unit conducts annual training before the summer riding season begins. Photo Credit: Dickinson Police Department



(Bottom) Officers participate in monthly "Coffee with a Cop" events at local coffee shops and nursing homes. Photo Credit: Dickinson Police Department

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June 14, 2024, from <https://www.asymmetricsolutionsusa.com/training/law-enforcement/force-on-force/>). During this training, “role players induce both physical and mental stress” (accessed June 14, 2024, from <https://www.asymmetricsolutionsusa.com/training/law-enforcement/force-on-force/>) using physical force, simulated edged or blunt force weapons, or their own service weapon that has been loaded with training-safe ammunition, or other means to deescalate a situation.

The Department follows a triple-check process to ensure no live weapons are used in its Force on Force training exercises.

“When it comes time to use of force situations, if you don’t have the time to react, and you have to make a split-second decision, we’re entrusting you to make the correct decision, and we’re going to train you to that level,” he said.

Hanel shared officers are trained to de-escalate situations when time permits, mitigating threats by using time, distance, and cover, and referring to contingency plans to reduce or eliminate the chance that officers need to use force to intervene.

The Department’s VirTa Simulator has also been an invaluable tool and is used quarterly for officer training. Featuring three room-height screens, its simulator offers an immersive 180-degree training experience, which includes weapons recoil, to align the simulated experience as close as

possible to real-life encounters.

“With any training, we want to lessen the potential for bad use of force and increase officers’ competency, which instills public trust that our officers are going to respond professionally, uphold legal and department policy, and keep our community members safe,” Hanel said.

The simulator’s instructor manages the scenario and, based on an officer’s response to a scenario, can select different outcomes, ensuring officers gain experience in responding to different scenarios.

“The simulator also features a stress inoculation device called ‘Threat Fire,’ which allows the instructor to administer a minor electric shock on the officer. This shock serves as a reminder to officers that if their response doesn’t align with the Department’s policy and training goals, they may get hurt or somebody else may get hurt,” he said.

In addition to evaluating their training responses, the Department also evaluates its officers’ real-life incident response using an After Action Report. This report supplements an officer’s review, helping them evaluate their decisions, anticipate future possible failures and/or barriers, and improve future communication.

Department Recognition

In early June 2024, the Department again received the Lexipol Connect Recognition: Policy Gold Level Award. This award signifies its achievement of less than 10 percent (10%) of

pending policy updates, at least 80 percent (80%) of policies have been issued and acknowledged, and at least 80 percent (80%) of Daily Training Bulletins (DTBs) have been issued and taken.

Through its partnership with Lexipol, the Department has access to Lexipol’s “state-specific policies researched and written by subject matter experts and vetted by attorneys,” that are “based on nationwide standards and best practices while also incorporating state and federal laws and regulations where appropriate” (accessed June 13, 2024, from <https://www.lexipol.com/solutions/policies-and-updates/>).

“They [the attorneys] look at legislation, changes in case law at the state and federal levels, and make policy changes based on those,” Hanel explained. “We follow their guidance and take their recommendations and make it appropriate for the type of policing our citizens expect on this side of the state.”

“If you look nationwide at claims activity, you’ll notice the claims are typically policy driven, not training driven,” Hanel said. “To have a company that can back up their guidance and recommendations with legal expertise gives peace of mind that we’re giving our officers the right direction. We’re not sending mixed signals or expecting them to do something that’s just not going to work so and keeping them safe as well.”

INTERNAL RECOGNITION

Throughout the year, the Department’s

employees can nominate each other for awards that are distributed at its year-end Christmas party. Examples of award categories include Lifesaving, Meritorious, Distinguished Service, and Longevity, among others.

These awards are shared externally via the Department’s social media pages in January during the Department’s “Hero Recognition Week.” The social media posts highlight each officer’s heroic actions during a life-saving or critical incident and share bodycam, if it’s able to do so.

“We try to do a lot of internal recognition for the action of our officers,” Hanel said.

Looking to the Future

So, what’s the Department looking forward to? Overcoming challenges, which it has a long and strong history of successfully doing.

“It’s been a very complex time in LE, both the external factors that were facing nationwide, and mainly the recruitment and retention

issue we’re currently having,” he said, acknowledging the issue isn’t isolated to the Department and other industries.

“We’re hoping to turn a corner on that by the end of the year,” he continued, adding the Department was down 11 officers as of the beginning of 2024.

Hanel explained the Department recently implemented a lateral officer program in which experienced law enforcement officers from other departments who join Dickinson Police Department receive a higher starting rate.

Recently, a Virginia officer who has over 20 years of law enforcement experience joined the Department. He moved to join his daughter who now lives in Dickinson.

“He’s had some pretty amazing life and career experiences,” Hanel said. “Being able to tap into him and have him mentor our newer officers here, even though he’s new to the department, demonstrates how beneficial the

lateral program has already been.” Hanel estimates the Department will be fully staffed by year-end, having many positions filled by officers who have no previous law enforcement experience. While it’s exciting to bring in new officers, he recognizes it requires a lot of high-quality training to help them quickly develop good decision-making habits as well as resources to help them gain institutional knowledge the Department will lose due to the retirement of fellow long-term officers.

“Our big emphasis in the next couple of years is spinning up our mid-management training so new officers today are well-trained and prepared to fill these leadership positions in the future,” he said. “I’m very optimistic,” he continued, saying the Department’s current slate of new officers have been great additions to the team.

“We have great community support here, so it makes our job so much easier,” he said. “We get to go out and do what we’ve always wanted to do: be cops who protect the community.”

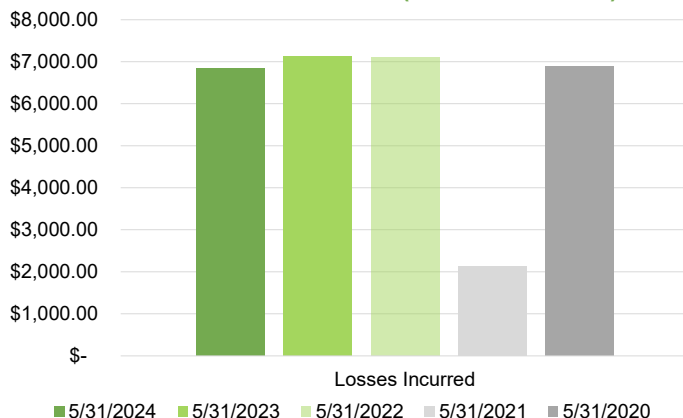
FINANCIAL INSIGHTS

As of May 31, 2024, the NDIRF remains in a strong financial position with assets at \$62.2 million, including over \$35 million in member equity. Our loss ratio through the month was 40.9%, well below our budgeted amount (60%).

BALANCE SHEET (IN THOUSANDS)



YTD LOSSES INCURRED (IN THOUSANDS)





NEW FLSA OVERTIME RULE EFFECTIVE JULY 1, 2024

Written by Joanna Drennen, MASCM

NDIRF Marketing and Communications Manager, HR Collaborative Executive Director

The Department of Labor (Department) finalized on April 26, 2024, updates to regulations under the Fair Labor Standards Act (FLSA) regarding exemptions from minimum wage and overtime pay requirements for certain categories of employees.



eligibility thresholds will be updated every three years, based on current wage data” (Looman, J.).

Additionally, this new rule as of July 1, 2024, raises the highly compensated employee (HCE) annual

Effective July 1, 2024, the final rule “will increase the standard salary level that helps define and delimit which salaried workers are entitled to overtime pay protections under the FLSA” (Looman, J., What the New Overtime Rule Means for Workers, accessed 2 May 2024 from <https://blog.dol.gov/2024/04/23/what-the-new-overtime-rule-means-for-workers>).

Full-time salaried workers who meet FLSA requirements and earn less than \$844 per week (\$43,888/year) will be eligible for overtime pay as of July 1, 2024, per this new rule.

This new rule also sets future eligibility limits. As of Jan. 1, 2025, full-time salaried workers who meet FLSA requirements and earn \$1,128 per week (\$58,656/year) will be eligible for overtime pay and, starting July 1, 2027, “the

compensation threshold to \$132,964 per year and, as of Jan. 1, 2024, raises the HCE annual compensation threshold to \$151,164 for those who meet FLSA requirements.

Per the Department, “employees are exempt from the Fair Labor Standards Act’s minimum wage and overtime protections if they are employed in a bona fide executive, administrative, or professional capacity...To fall within the EAP [executive, administrative or professional employees] exemption, an employee generally must meet three tests:

1. be paid a salary, meaning that they are paid a predetermined and fixed amount that is not subject to reduction because of variations in the quality or quantity of work performed;
2. be paid at least a specified weekly salary level; and
3. primarily perform executive, administrative, or professional duties, as provided in the Department’s

Continued on p. 15

regulations.” (U.S. Department of Labor, Final Rule: Restoring and Extending Overtime Protections, accessed 2 May 2024).

Overall, this new rule addresses concerns raised by previous approaches to setting salary levels, seeking to strike a balance between ensuring fair compensation for employees and providing flexibility for employers. By aligning salary thresholds with contemporary wage

data, the Department aims to uphold the integrity of the exemptions while safeguarding against unintended consequences, such as the misclassification of employees.

If you have further questions about the Department’s new rule, visit <https://www.dol.gov>.

NDIRF SPONSORS BLUE TO GOLD LAW ENFORCEMENT TRAINING

The NDIRF was proud to sponsor a five-day Blue to Gold POST certified training conference from April 29-May 3 at the Public Works Facility in Dickinson. The conference was hosted by the Southwest Crime Conference, a Dickinson-based law enforcement training organization, and offered courses in advanced search and seizure, advanced traffic stops, advanced criminal investigations, report writing, and courtroom testimony.

Blue to Gold is a nationally recognized law enforcement training provider that offers “high-energy training that is relevant and relatable to every street officer” (accessed May 13, 2024, from www.BlueltoGold.com). The training provider strives to “translate essential doctrines into language that officers can easily understand and apply in their daily work” (accessed May 13, 2024, from www.BlueltoGold.com) and to support effective decision-making and reduce costly legal errors (www.BlueltoGold.com, 2024).

The conference attracted 102 local government law enforcement officers.

“All officers who attended felt they learned numerous things that could help them do their jobs better and reduce and prevent liability in the course of their duties,” Dickinson Police Department Detective and Southwest Crime Conference Secretary/Treasurer Tiffany Whinery said. “We appreciate the NDIRF’s support. We would not have been able to host this event without their help.”

The NDIRF offers liability, auto, and public assets coverages to North Dakota’s local governments, including cities and counties that provide law enforcement services. As the source of risk services for its local government members, the NDIRF seeks partnerships with training associations and organizations to help



its members continually enhance their risk management operations.

“Providing law enforcement training helps to foster a culture of safety, accountability, and preparedness, ensuring both the protection of its members and the community they serve,” NDIRF Director of Member Services Corey Olson said.

Photo: NDIRF Director of Member Services Corey Olson addresses day-one attendees at the Southwest Crime Conference’s Blue to Gold Training, held April 29-May 3, 2024, at the Public Safety Center in Dickinson.



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Get immediate repair authorization and quick repair payments using our new Quick Pay Claims Form. The 11-field form can be used when your entity's auto or equipment repair estimates are \$3,000 or less and meet specific qualifications. To view the list of qualifications, visit our website at www.NDIRF.com>Submit a Claim>Quick Pay Comp Claim.

The form can be completed by your entity or local agent, both of which will receive communications from the NDIRF through resolution of the submitted claim.

Please contact our Claims Department at Claims@ndirf.com or (701) 224-1988 if you have any questions about this new form or visit www.NDIRF.com>Submit a Claim>Quick Pay Comp Claim.

UPCOMING EVENTS

Board Meeting

Sept. 5, 2024
Bismarck, ND
NDIRF.com

NDRPA State Conference

Sept. 10-12, 2024
Watford City, ND
NDRPA.com

NDLC Annual Conference

Sept. 18-20
Grand Forks, ND
NDLC.org

NDACo Annual Conference

Oct. 20-22
Bismarck, ND
NDACo.org

NDSBA Annual Convention

Oct. 24-25
Bismarck, ND
NDSBA.org