

Reporting of Employee Convictions

710.1 PURPOSE AND SCOPE

Convictions of certain offenses may restrict or prohibit an employee from performing his or her official duties. Therefore, all employees are required to notify the Department promptly of any criminal convictions. Peace officer employees also must notify the Department of all recent arrests and of pending criminal proceedings against them.

710.2 DOMESTIC VIOLENCE CONVICTIONS AND RESTRAINING ORDERS

California and federal law prohibit individuals convicted of, or having and outstanding warrant for, certain offenses and individuals subject to certain court orders from lawfully possessing a firearm. Such convictions and court orders often involve allegations of the use or attempted use of force or threatened use of a weapon on any individual in domestic relationship (e.g., spouse, cohabitant, parent, child).

Penal Code section 29805 prohibits any person convicted of certain offenses including, but not limited to Penal Code sections 273.5, 273.6 and 646.9, from lawfully possessing a firearm within ten (10) years of the conviction. Pursuant to the Federal Domestic Violence Gun Control Act. (18 USC § 921(a) and 18 USC § 922(d).) any person who has been convicted of a misdemeanor domestic violence offense is prohibited from possessing any firearm or ammunition. Employees shall report promptly any and all convictions of such nature to the Chief Probation Officer or their designee.

Federal law also prohibits firearm possession by any individual who is the subject of a domestic violence restraining order. While this federal restriction does not apply to temporary restraining orders. (18 USC § 922(d)(8).) Family Code section 6389 does prohibit any individual from lawfully possessing a firearm if they are currently the subject of a domestic violence restraining order (including temporary and emergency orders). As such, employees shall notify the Chief Probation Officer or their designee promptly if they become the subject of any temporary, emergency or permanent domestic restraining order.

710.3 OTHER CRIMINAL CONVICTIONS AND COURT ORDERS

Government Code section 1029 prohibits any person convicted of a felony from being a peace officer in the State of California. This prohibition applies regardless of whether the guilt was established by way of a verdict, guilty or nolo contendere plea.

Convictions of certain violations of the Vehicle Code and other provisions of law may also place restrictions on an employee's ability to fully perform the duties of the job.

Outstanding warrants as provided in Penal Code section 29805 also place restrictions on a member's ability to possess a firearm.

Yolo County Probation Department

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Moreover, while legal restrictions may or may not be imposed by statute or by the courts upon conviction of any criminal offense, criminal conduct by members of this Department may be inherently in conflict with law enforcement duties and the public trust.

710.4 REPORTING PROCEDURE

All members of this Department and all retired officers with an identification card issued by the Department shall promptly notify their immediate supervisor (or the Chief Probation Officer in the case of retired officers) promptly in writing of any criminal arrest, outstanding warrant or conviction regardless of whether or not the matter is currently on appeal and regardless of the penalty or sentence, if any.

All members and all retired officers with an identification card issued by the Department shall further promptly notify their immediate supervisor (or the Chief Probation Officer in the case of retired officers) in writing if the member or retiree becomes the subject of a domestic violence restraining order or similar court order or becomes the subject of an outstanding warrant.

Any member whose criminal conviction unduly restricts or prohibits that member from fully and properly performing his or her duties may be disciplined including, but not limited to reassignment and/or termination. Any effort to remove such disqualification or restriction shall remain entirely the responsibility of the member on his/her own time and expense.

Any member failing to provide prompt written notice pursuant to this policy shall be subject to discipline up to and including termination.

710.5 PROCEDURE FOR RELIEF

Pursuant to Penal Code section 29855, a peace officer whose employment or livelihood is dependent on the ability to legally possess a firearm may petition the court for permission to carry a firearm following a conviction under Penal Code sections 273.5, 273.6 or 646.9. Federal law, however, does not provide for any such similar judicial relief and the granting of a state court petition under Penal Code section 29855 will not relieve a peace officer of the restrictions imposed by federal law. Therefore, relief for any employee falling under the restrictions imposed by federal law may only be obtained by expungement of the conviction. Each employee shall seek relief from firearm restrictions on their own time and through their own resources.

Pursuant to Family Code section 6389(h), an individual may petition the court for an exemption to any restraining order, which would thereafter permit the individual to carry a firearm as a part of his or her employment. Relief from any domestic violence restraining order or other restriction shall also be pursued through the employee's own resources and on the employee's own time.

Pending satisfactory proof of relief from any legal restriction imposed on an employee's duties, the employee may be placed on administrative leave, re-assigned or investigated for the underlying associated conduct. The Department may, but is not required to return an employee to any assignment, reinstate any employee or withdraw any pending disciplinary action upon presentation of satisfactory proof of relief from any legal restriction set forth in this policy.