

Reporting of Member Convictions or Restrictions

1010.1 PURPOSE AND SCOPE

Convictions of certain offenses may restrict or prohibit a Member's ability to properly perform official duties; therefore, all Members shall be required to promptly notify the Department of any past and current criminal convictions.

Restrictions placed on a Member due to a court order, protective order, or a mental health hold may render a Member temporarily ineligible to possess a firearm and/or perform their duties as a peace officer; therefore, all sworn Members and SSOs shall be required to immediately notify the Department of their firearm ineligibility.

Members who are required to maintain licenses or certifications as a condition of their job function shall immediately report to their direct supervisor or on-duty Department Commander of any restrictions, revocations, or other actions that may affect the validity of those credentials.

1010.2 DOMESTIC VIOLENCE CONVICTIONS AND RESTRAINING ORDERS

Pursuant to the Federal Domestic Violence Gun Control Act (18 United States Code §§ 922(g)(9)), any person who has been convicted of a misdemeanor domestic violence offense is prohibited from possessing any firearm or ammunition.

Misdemeanor crimes of domestic violence are defined as misdemeanors under federal, state law or tribal law, having as an element, the use or attempted use of physical force, or the threatened use of a deadly weapon, committed by a current or former spouse, parent or guardian of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse, parent or guardian, or by a person similarly situated to a spouse, parent or guardian of the victim (18 United States Code § 921(a)(33)).

Federal law also prohibits firearm possession by any individual who is the subject of a domestic violence restraining order (18 United States Code § 922(g)(8)). This federal restriction, however, does not apply to situations involving Temporary Restraining Orders (TRO) where no hearing was held before the issuance of the TRO, or where the individual subject to the order did not receive actual notice of the hearing and an opportunity to participate (18 United States Code § 922(d)(8)).

Penal Code § 29885(a)(1) prohibits any person convicted of certain offenses including, but not limited to Penal Code §§ 273.5, 273.6 and 646.9, from lawfully possessing a firearm.

Family Code § 6389 prohibits any person from carrying a firearm if they are currently the subject of a domestic violence restraining order (including temporary and emergency orders).

1010.3 OTHER CRIMINAL CONVICTIONS

Government Code § 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.

Orange County Sheriff-Coroner Department

Orange County SD Policy Manual

Reporting of Member Convictions or Restrictions

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

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.

1010.4 REPORTING PROCEDURE

All Members of this Department and all retired deputies with a CCW endorsement shall promptly notify their immediate supervisor (or the Sheriff in the case of retired deputies) in writing of any past or current criminal arrest or conviction regardless of whether or not the matter is currently on appeal and regardless of the penalty or sentence, if any.

All sworn Members and all retired deputies with a CCW endorsement shall further promptly notify their immediate supervisor (or the Sheriff in the case of retired deputies) in writing if the Member becomes the subject of a domestic violence restraining order issued by a court of competent jurisdiction.

Any Member whose criminal conviction unduly restricts or prohibits that Member from fully and properly performing his/her duties may be disciplined including, but not limited to being placed on administrative leave, reassignment, and/or termination.

Any Member failing to provide prompt written notice pursuant to this policy shall be subject to discipline.

1010.5 PROCEDURE FOR RELIEF

Pursuant to Penal Code § 29855, a peace officer may petition the court for permission to carry a firearm following a conviction under state law. Federal law, however, does not provide for any such similar judicial relief and the granting of a state court petition under Penal Code § 29855 will not relieve one of the restrictions imposed by federal law. Therefore, relief for any Member falling under the restrictions imposed by federal law may only be obtained by expungement of the conviction. Each Member shall seek relief from firearm restrictions on their own time and through their own resources.

Pursuant to Family Code § 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 their employment. Relief from any domestic violence or other restriction shall also be pursued through the Member's own resources and on the Member's own time.

Pending satisfactory proof of relief from any legal restriction imposed on a Member's duties, the Member may be placed on administrative leave, reassigned or disciplined. The Department may, but is not required to return a Member to any assignment, reinstate any Member, or reverse any pending or imposed discipline upon presentation of satisfactory proof of relief from any legal restriction set forth in this policy.

Orange County Sheriff-Coroner Department

Orange County SD Policy Manual

Reporting of Member Convictions or Restrictions

1010.6 ESTABLISHING ELEMENTS OF A VIOLATION OF LAW

The existence of facts establishing a violation of the law or ordinance is all that is necessary to support any allegation. When a violation of law occurs, the lack of criminal prosecution shall be no bar to administrative discipline.

1010.7 MANDATORY NOTIFICATION OF FIREARM INELIGIBILITY

All sworn Department Members and Sheriff's Special Officers are required to maintain the lawful ability to possess, carry, and use firearms in accordance with state and federal law and departmental policy. As such, any Member who becomes prohibited from possessing or carrying a firearm, either temporarily or permanently, shall immediately notify their supervisor and/or the on-duty Department Commander. Any supervisor or manager who receives this notification shall ensure the Professional Standards Division and Internal Affairs are immediately notified.

1010.7.1 APPLICABLE CIRCUMSTANCES

Circumstances that may cause firearm ineligibility include, but are not limited to:

- Issuance of any criminal or civil restraining order (e.g., Domestic Violence, Workplace Violence, Civil Harassment, Gun Violence Restraining Order)
- A finding or detention under Welfare and Institutions Code § 5150, § 8100, or § 8103 resulting in a firearm prohibition
- Probation, court orders, or bail conditions that restrict firearm possession
- Criminal charges or convictions (including out-of-state or federal actions) that legally prohibit possession
- Any other condition that causes the Member to become a prohibited person under state or federal law (e.g., 18 U.S.C. § 922(g))

1010.7.2 NOTIFICATION AND RESPONSE PROCEDURE

1. The Member shall notify their supervisor or manager within their chain of command or the on-duty Department Commander as soon as practical.
2. The Department Commander shall:
 - Immediately notify the Executive Command Staff
 - Notify the Professional Standards Division (PSD) Employee Relations and SAFE Division (Internal Affairs)
3. Executive Command shall evaluate whether the Member should be placed on administrative leave, assigned to modified duty, or temporarily relieved of duty, including the surrender of firearms and other Department-issued equipment. Executive Command may also determine whether the Member should be referred for services in accordance with Policy 1034 – Member Wellness.

1010.8 MANDATORY NOTIFICATION OF LICENSE OR CERTIFICATION INELIGIBILITY

Members who have a specialized job function requiring specific licenses or certifications shall notify the Department and their direct supervisor upon any ineligibility, revocation, surrender or

Orange County Sheriff-Coroner Department

Orange County SD Policy Manual

Reporting of Member Convictions or Restrictions

suspension of these licenses. The following examples are not all inclusive: California Peace Officer Standards & Training (POST) certificates, California Driver's License, Motorcycle driver's license for motor deputy, a boating or pilot license for vessel or aircraft operators, and a commercial driver's license for buses or tractor trailers.