

Reporting of Employee Convictions

1010.1 PURPOSE AND SCOPE

Convictions of certain offenses may restrict or prohibit an employee's ability to properly perform official duties. Therefore, all employees shall be required to promptly notify the Department of any past and current criminal convictions.

The Administrative Sergeant shall submit in a timely manner a notice to the Commission on Peace Officer Standards and Training (POST) of any appointment, termination, reinstatement, name change or status change regarding any peace officer, reserve peace officer, public safety dispatcher and records supervisor employed by this department (11 CCR § 9040).

The Administrative Sergeant shall submit in a timely manner a notice to POST of a felony conviction or Government Code § 1029 reason that disqualifies any current peace officer employed by this department or any former peace officer if this department was responsible for the investigation (11 CCR § 9041).

1010.2 DOMESTIC VIOLENCE CONVICTIONS AND RESTRAINING ORDERS

California Penal Code § 29805 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. 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. Because such offenses may include any conviction involving the use or attempted use of force or threatened use of a weapon on any individual in a domestic relationship (e.g., spouse, cohabitant, parent, child), employees shall promptly report any and all convictions of such nature.

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)), California Family Code § 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 promptly notify the Department if they become the subject of any temporary, emergency or permanent domestic restraining order.

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.

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.

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.

Barstow Police Department

Policy Manual

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1010.4 REPORTING PROCEDURE

All employees of this department and all retired officers with a CCW endorsement shall promptly notify their immediate supervisor (or the Chief of Police in the case of retired officers) 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 employees and all retired officers with a CCW endorsement shall further promptly notify their immediate supervisor (or the Chief of Police in the case of retired officers) in writing if the employee becomes the subject of a domestic violence restraining order issued by a court of competent jurisdiction.

Any employee whose criminal conviction unduly restricts or prohibits that employee 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 employee 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 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 § 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 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, reassigned or disciplined. The Department may, but is not required to return an employee to any assignment, reinstate any employee or reverse any pending or imposed discipline upon presentation of satisfactory proof of relief from any legal restriction set forth in this policy.