

GENERAL DISTRIBUTION

**WEST VIRGINIA
DIVISION OF CORRECTIONS
& REHABILITATION**

NUMBER: 129.03

DATE: 25 September 2020

**SUBJECT: REPORTING ARRESTS &
DOMESTIC VIOLENCE
PROTECTIVE ORDERS BY
EMPLOYEES**

POLICY DIRECTIVE

PURPOSE:

To delineate appropriate procedures requiring employees to report in a timely manner any criminal arrest or issuance of a domestic violence protective order.

REFERENCE:

WV Code §§48-27-403, 48-27-502 and 61-7-7; 18 U.S.C. Section 922(g)(8); and 18 U.S.C. Section 922(g)(9).

RESPONSIBILITY:

No additional written instructions on this subject are required.

CANCELLATION:

Any previous written instruction on the subject including DCR Policy Directive 129.03, dated 01 November 2018.

APPLICABILITY:

All facilities and work units within the Division of Corrections and Rehabilitation. This Policy is available for general distribution.

DEFINITIONS:

Felony: An act, if prosecuted in a court of competent jurisdiction, which would constitute a felony of the criminal laws of the United States or any State thereof for which one or more years imprisonment could be imposed or is otherwise designated by statute as a

felony (or is otherwise designated by statute in the jurisdiction in which the prosecution has occurred or will occur as a felony).

Misdemeanor: An act, if prosecuted in a court of competent jurisdiction, which would constitute a violation of the criminal laws of the United States, or any State thereof, or any municipality therein for which one (1) year or less of incarceration in jail could be imposed or is otherwise designated by statute as a misdemeanor.

Protective Order: An emergency protective order issued by a magistrate (or other judicial officer of competent jurisdiction) as a result of the emergency hearing or a final protective order issued by a family court judge (or other judicial officer of competent jurisdiction) when the respondent has requested a hearing before the family court judge (or other judicial officer of competent jurisdiction) following entry of the emergency protective order by the magistrate (or other judicial officer of competent jurisdiction).

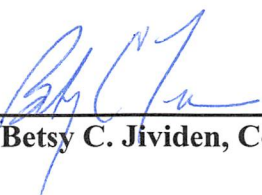
POLICY:

- I. Any employee who is arrested for a misdemeanor or felony crime, served a criminal summons, and/or charged with a violation of criminal code shall self-report the place, date, time, arresting agency and details of the alleged crime via memorandum to his/her immediate supervisor within twenty-four (24) hours following said arrest.
- II. Any employee who is subject to a domestic violence protective order shall self-report the county, dated served and ending date via memorandum to his/her immediate supervisor within twenty-four (24) hours following said order being served on him/her.
- III. Supervisory personnel who receive written notifications as set forth above shall forward said notices through the chain of command to the Superintendent or work unit director/supervisor as appropriate. Superintendents, and other work unit directors/supervisors shall forward said notices through his/her chain of command to the appropriate Assistant Commissioner or Chief of Staff.
- IV. The employee will notify his/her immediate supervisor in writing by providing a copy of the final disposition of any arrest, criminal summons, criminal charge or domestic violence protective order within twenty-four (24) hours following the disposition.
- V. Based upon a review of the circumstances, the employee's work status and/or specific duties may be modified if it is found that such is in the public interest or as required by statute. Criminal activity may be cause for disciplinary action, up to and including dismissal from employment.
- VI. It is a federal crime under the Gun Control Act to possess a firearm and/or ammunition while subject to a protective order or to possess a firearm and/or ammunition after conviction for a misdemeanor crime of domestic violence.

- A. State code also prohibits a person from possessing any firearm or ammunition when a domestic violence protective order has been entered against him/her. A state license to carry a firearm does not override this prohibition.
 - B. Any employee who has a domestic violence protective order entered against him/her will be notified in person and in writing (**Attachment #1**) that he or she is prohibited from performing any duty which requires him/her to carry a firearm and/or ammunition, or to work on a post where firearms and/or ammunition is stored while said protective order is active. All supervisory personnel will enforce this prohibition.
- VII. While an employee who files a domestic violence protective order against another person is not required to report such action to his/her immediate supervisor, he/she is encouraged to do so.
- VIII. In the event one employee files a domestic violence protective order against another employee, the Superintendents, and as appropriate other work unit directors and supervisors will consult with the appropriate Assistant Commissioner or Chief of Staff or designee concerning the course of action to be taken.

ATTACHMENT(S):

#1 Domestic Violence Protective Order Memorandum

APPROVED SIGNATURE:  _____
Betsy C. Jividen, Commissioner 9-14-20
Date

STATE OF WEST VIRGINIA
DEPARTMENT OF HOMELAND SECURITY
DIVISION OF CORRECTIONS & REHABILITATION



BETSY C. JIVIDEN
COMMISSIONER

JEFF S. SANDY, CFE, CAMS
CABINET SECRETARY

Office of the Commissioner
1409 Greenbrier Street
Charleston, WV 25311
304-558-2036 – Telephone
304-558-5367 - Fax

TO: *Name, Title*
FROM: *Name, Title*
DATE: *Day Month Year*
RE: Domestic Violence Protective Order

I am writing this correspondence in reference to the Protective Order that was issued on *Date*, Magistrate Court Case No: _____ naming you as the respondent. West Virginia Code §48-27-403 prohibits a person from possessing any firearms or ammunition when a domestic violence protective order has been entered against them. You are hereby advised to adhere to the following conditions:

- You are not to possess any firearms/ammunition or work duty posts where firearms or ammunition are stored.
- You are to notify your immediate supervisor in writing of the final disposition of the protective order within twenty-four (24) hours after receiving the disposition by submitting a copy of that disposition.
- Additionally, it is your responsibility to adhere to the terms and conditions set forth by the court in the Protective Order during your employment with the Division of Corrections and Rehabilitation.

Date Received

Signature of Employee Receiving Notice

CC: Assistant Commissioner
Personnel File