

**MARIN COUNTY SHERIFF'S OFFICE
GENERAL ORDERS MANUAL**

**CHAPTER 2 - PERSONNEL
GO-02-12
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**DATE
May 26, 1997
Rev: 1/25/02**

DOMESTIC VIOLENCE CONVICTIONS

POLICY

Congress enacted amendments to the federal Domestic Violence Gun Possession Ban, 18 U.S.C. §921(a), 922(d) and (922(g), which now prohibits persons who have been convicted of misdemeanor domestic violence offenses from possessing a firearm or ammunition. These amendments essentially extend the current federal law, which prohibit the possession of a firearm by a felon, to persons convicted of misdemeanors involving domestic violence as defined by individual state law.

The amendment defines misdemeanor crime of domestic violence as an offense that:

- is a misdemeanor under Federal or State law; and
- has, 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 cohabiting with or has cohabited with the victim as a spouse, parent, or guardian, or by a person similarly situated to a spouse, parent, or guardian of the victim.

PROCEDURE

Under California law, Penal code §12021 prohibits a person from possessing a firearm for a 10-year period following a conviction for a violent misdemeanor.

A peace officer in California, however, is permitted to petition the court for a waiver in those cases where the officer had been convicted of domestic violence.

The federal statute does not provide for any waiver or any exception for peace officers and, therefore, applies to them as well. A conviction of any of the violations articulated in Penal Code §273.5 would fit the definition of a misdemeanor crime of domestic violence as articulated in the U.S. Code.

Under the federal law amendments, convictions which have been expunged or set aside, or for which the person has been pardoned or has had civil rights restored are not subject to the prohibition on possession of firearms. However, the amendments apply to any conviction that occurred before the statute's enactment and do not provide any term limitation on the prohibition. In other words, under current federal law, the prohibition on possession of firearms lasts forever.

DIRECTIVES

All newly hired Peace Officer employees will complete a Disclosure Regarding Domestic Violence Convictions form prior to their being sworn in. The completed form will be placed in their Sheriff's Department personnel folder.

In addition, all sworn personnel are ordered to immediately notify their immediate supervisor, in writing, if at any time in the future they believe they have become subject to the federal statute outlined above.

RELATED STANDARDS

18 U.S.C. §921(a), 922(d) and (922(g)
Penal code §12021, §273.5

AFFECTED DIVISIONS

ALL

DATE OF REVISIONS

5/26/97
1/25/02

By order of:

**ROBERT T. DOYLE
SHERIFF**

DISCLOSURE REGARDING DOMESTIC VIOLENCE CONVICTIONS

I, _____, have read the foregoing General Order as issued by the Marin County Sheriff ' s Office.

I am _____ or I am not _____ (check one) subject to the federal statute outlined in the foregoing General Order.

Signature

Date