



Tulsa Police Department

This policy statement and the procedures thereunder are intended for Police Department use only. The policies, procedures, and regulations are for internal Police Department administrative purposes and are not intended to create any higher legal standard of care or liability in an evidentiary sense than is created by law. Violations of internal Police Department policies, procedures, regulations, or rules form the basis for disciplinary action by the Police Department. Violations of law form the basis for civil and/or criminal sanctions to be determined in a proper judicial setting, not through the administrative procedures of the Police Department.

Policy # 323

Effective Date 06/02/2009

Policy Name Domestic Violence/Possession of Firearms and Ammunition

Approved Date 05/19/2009

Approved by *Wendell Franklin, Chief of Police*

Previous Date 08/15/2003

PURPOSE OF CHANGE:

To update policy format.

POLICY:

Federal law prohibits an officer from receiving and possessing any firearm or ammunition which has been shipped or transported in interstate or foreign commerce if that officer has been convicted in any court of a misdemeanor crime of domestic violence.

“A person shall not be considered to have been convicted of such an offense for purposes of this [policy], unless: 1) the person was represented by counsel in the case or knowingly and intelligently waived the right to counsel in the case; and 2) in the case of a prosecution for an offense described in this paragraph for which a person was entitled to a jury trial in the jurisdiction in which the case was tried, either the case was tried by a jury or the person knowingly and intelligently waived the right to have the case tried by a jury, by guilty plea or otherwise.” 18 U.S.C. 921(33)(A)

“A person shall not be considered to have been convicted of such an offense for purposes of this [policy] if the conviction has been expunged or set aside, or is an offense for which the person has been pardoned, or has had civil rights restored (if the law of the applicable jurisdiction provides for the loss of civil rights under such an offense) unless the pardon, expungement, or restoration of civil rights expressly provides that the person may not ship, transport, possess, or receive firearms.” 18 U.S.C. 921(33)(A)

SUMMARY: Procedures for an officer who has been served with a protective order or a restraining order, or has been charged, arrested, or convicted of the misdemeanor crime of Domestic Violence.

APPLIES TO: All sworn personnel

DEFINITIONS:

MISDEMEANOR CRIME OF DOMESTIC VIOLENCE – 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 of the victim, or by a person similarly situated to a spouse, parent, or guardian of the victim.

PROTECTIVE ORDER – an emergency protective order, an alias emergency protective order, or a protective order as defined in Policy 120B, *Protective Orders/Violation of Protective Orders*.

RESTRAINING ORDER – any other court order that restrains the officer from harassing, stalking, or threatening an intimate partner or child of such intimate partner or person or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child.

PROCEDURES:

1. When an officer is served with a protective order or a restraining order the officer must immediately forward an *Interoffice Correspondence* informing their division commander. Attach a copy of the order to the *Interoffice Correspondence*.
2. When notified that an officer has been served with a protective order or a restraining order, the division commander will conduct a preliminary discussion with the officer and forward an *Interoffice Correspondence* to the Chief of Police explaining the results of the discussion.
3. If the Chief of Police determines that an internal or criminal investigation is warranted, the Chief may restrict the officer from carrying firearms and ammunition issued by the City.
4. When an officer is arrested or charged with the misdemeanor crime of Domestic Violence, the officer must, as soon as possible, forward an *Interoffice Correspondence* to their division commander. Include the date of the offense, the location of the offense, the date of arrest, the arresting agency, and the location of the court that has jurisdiction of the case.
5. When notified that an officer has been arrested or charged with the misdemeanor crime of Domestic Violence, the division commander will inform the Chief of Police via an *Interoffice Correspondence*.
6. When notified that an officer has been charged with or arrested for the misdemeanor crime of Domestic Violence, the Chief of Police will assign either a criminal or administrative investigator.
7. The Chief of Police may restrict the carrying of firearms and ammunition issued by the City during and after the investigation. However, if the prosecuting authority either declines to file the charge or agrees to a deferred sentence wherein the officer is allowed to carry a firearm and ammunition for purposes of employment, then the officer may at the discretion and conditions imposed by the Chief of Police continue to possess firearms and ammunition issued by the City.
8. If an officer has ever been charged or arrested for the misdemeanor crime of Domestic Violence, even before the effective date of this policy, the officer must notify their division commander.
9. If an officer is or has ever been convicted at the trial level of the misdemeanor crime of Domestic Violence, the division commander will relieve the officer of all city issued firearms and ammunition. The officer will be issued a notice of a pre-action hearing and will be suspended with pay until the pre-action hearing is held. The hearing will be held in accordance with Policy 304B, *Pre-Action Hearings*.

REGULATIONS:

1. Any officer who is served with a protective order or a restraining order shall immediately forward an *Interoffice Correspondence* to their division commander. A copy of the order shall be attached.
2. Any officer who is arrested or charged, or who has ever been arrested or charged, or who has ever been convicted of the misdemeanor crime of Domestic Violence shall immediately forward an *Interoffice Correspondence* to their division commander. The *Interoffice Correspondence* shall include the date of the offense, the location of the offense, the date of arrest, the arresting agency, and the location of the court that has jurisdiction of the case.

REFERENCES:

18 U.S.C. 921(33)(A)
120A, *Domestic Violence*
120B, *Protective Orders/Violation of Protective Orders*
304B, *Pre-Action Hearings*