

Employee Arrests, Convictions and Court Orders

800.1 VERSION

Review Date	Effective Date	Approving Authority
02/23/19	07/09/18	Eric D. English, Chief of Police

800.2 POLICY AND PURPOSE

The Harrisonburg Police Department requires disclosure of employee arrests, convictions and certain court orders to maintain the high standards, ethics and integrity in its workforce, and to ensure compatibility with the duties and responsibilities of the Department.

This policy describes the notification requirements and procedures that employees must follow when certain arrests, convictions and court orders restrict their ability to perform the official duties and responsibilities of the Harrisonburg Police Department.

This policy will also describe the notification requirements and procedures that certain retired officers must follow when an arrest, conviction or court order disqualifies them from possessing a firearm.

800.3 ACCOUNTABILITY STATEMENT

All employees are expected to fully comply with the guidelines and timelines set forth in this policy. Responsibility rests with the supervisor to ensure that any violations of policy are investigated and appropriate training, counseling and/or disciplinary action is initiated. This directive is for internal use only, and does not enlarge an employee's civil liability in any way. It should not be construed as the creation of a higher standard of safety or care in an evidentiary sense, with respect to third party claims. Violation of this directive, if proven, can only form the basis of a complaint by this department, and then only in a non-judicial administrative setting.

800.4 DOMESTIC OR FAMILY VIOLENCE CONVICTIONS AND COURT ORDERS

Federal and Virginia law prohibit individuals convicted of certain offenses and individuals subject to certain court orders from lawfully possessing firearms. Such convictions and court orders often involve allegations of 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) (18 USC § 922; Va. Code § 18.2-308.2).

All members and retired officers with identification cards issued by the Department are responsible for ensuring that they have not been disqualified from possessing firearms by any such conviction or court order, and shall promptly report any such conviction or court order to a supervisor, as provided in this policy.

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800.5 OTHER CRIMINAL CONVICTIONS AND COURT ORDERS

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, and shall be reported as provided in this policy.

Virginia law prohibits individuals convicted of a felony from lawfully possessing firearms. This prohibition does not apply to a law enforcement officer while in the performance of his/her duties (Va. Code § 18.2-308.2).

800.6 NOTIFICATIONS

All employees and all retired officers with identification cards issued by the Department shall immediately notify their supervisors (retired officers should immediately notify the Patrol Commander or the Chief of Police) of any arrest, charge or conviction in any state or foreign country, regardless of whether the matter was dropped, rejected or is currently pending or is on appeal, and regardless of the penalty or sentence.

All employees and all retired officers with identification cards issued by the Department shall immediately notify their supervisors (retired officers should immediately notify the Patrol Commander or the Chief of Police) if they become the subject of a domestic or family violence-related order or any court order that prevents the member or retired officer from possessing a firearm or requires suspension or revocation of applicable Virginia Department of Criminal Justice Services (DCJS) certification. This includes if they are the respondent of any protective order, restraining order, or similar legal process intended to keep parties separate.

Any employee whose criminal arrest, conviction or court order restricts or prohibits that member from fully and properly performing his/her duties, including carrying a firearm, may be disciplined. This includes, but is not limited to, being placed on administrative leave, reassignment and/or termination. Any effort to remove such disqualification or restriction shall remain entirely the responsibility of the member, on his/her own time and at his/her own expense.

Any employee failing to provide prompt notice pursuant to this policy shall be subject to discipline, up to and including termination.

Retired officers may have their identification cards rescinded or modified, as may be appropriate.

800.6.1 NOTIFICATION REQUIREMENTS

The Administrative Bureau Commander shall submit, in writing, the proper notice to the DCJS within 48 hours of becoming aware that a sworn law enforcement officer has (Va. Code § 15.2-1707):

- (a) Been convicted of a criminal offense that would require reporting.
- (b) Refused to submit to a drug screening or has produced a positive result on a drug screening, where the positive result cannot be explained to the Administrative Bureau Commander's satisfaction.
- (c) Resigned or been terminated in advance of:

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1. Being convicted of an offense that would require reporting.
2. A pending drug screening.