

CHAPTER: 500

Personnel/Human Resources

DEPARTMENT ORDER:

523 – Domestic and Workplace Violence

**OFFICE OF PRIMARY
RESPONSIBILITY:**

HR

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Arizona Department of Corrections Rehabilitation and Reentry



Department Order Manual

A handwritten signature in black ink, appearing to read "David Shinn", is written over a horizontal line.

David Shinn, Director

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PURPOSE

This Department Order establishes programs and services available for victims of crime and domestic or workplace violence and provides a reporting process for employees who believe they may become a victim as the result of an action or threat of action. This Department Order provides information on domestic violence convictions, which, pursuant to the 1996 amendment to the Federal Gun Control Act of 1968, prohibits employees convicted of domestic violence from possessing or receiving firearms or ammunition. This Department Order provides information for eligible employees to file an affidavit through the courts requesting their personal information not be accessible to the general public pursuant to Arizona Revised Statute (A.R.S.) §11-483 and §11-484.

RESPONSIBILITY

Employees shall attempt to resolve minor conflicts promptly and, if possible, without the need for external or management intervention. However, when a conflict escalates or comes to the attention of management, it is management's responsibility to conduct an immediate assessment of the circumstances using problem solving techniques and take appropriate action.

PROCEDURES

1.0 DOMESTIC VIOLENCE

- 1.1 The Department shall provide support to employees experiencing domestic violence by offering assistance through the following:
 - 1.1.1 A list of resources for victims of domestic violence. (See Promoting a Safer Environment, Attachment A.) The list of resources:
 - 1.1.1.1 Shall be posted on employee bulletin boards and the ADCNet – Employee Resources webpage.
 - 1.1.1.2 May be obtained by contacting the employee's supervisor.
 - 1.1.2 Department Order #526, Victim Services, which provides information and notification to crime victims and advocates for their rights as survivors.
 - 1.1.3 Department Order #519, Employee Health – State/Federal Programs and Assignments, which provides employees a number of leave benefit options offered by the Department.
 - 1.1.4 Department Order #520, Employee Travel Reduction, which authorizes adjusted or flexible work schedules and the telecommuting program.
 - 1.1.5 Department Order #521, Employee Assistance Program, which provides referral services for employees under stress from a temporary crisis (e.g., substance abuse, family crisis situations, and financial difficulties).
 - 1.1.6 Victim's Leave, pursuant to A.R.S. §8-420 and §13-4439, authorizes employees who are the victim of a crime to miss work to attend certain types of court related proceeding for themselves or immediate family members, as outlined in Department Order #512, Employee Pay, Work Hours, Compensation and Leave.

- 1.2 In all situations involving domestic violence, supervisors shall:
 - 1.2.1 Review the safety of parking and work arrangements. If possible, supervisors shall have an employee escorted to his/her vehicle by security staff, leave work with other employees, contact the Criminal Investigations Unit (CIU) or call local police.
 - 1.2.2 Not penalize, discipline or retaliate against any employee for reporting victimization or solely for being a victim of domestic violence.
 - 1.2.3 Refer employees to appropriate referral services for assistance.
- 1.3 Employees (whether perpetrators or victims) may contact an intervention program or the Employee Relations Unit for assistance, without going through their supervisor.

2.0 DOMESTIC VIOLENCE ARRESTS/CITATIONS – Employees who have been arrested/cited for one or more felonies involving domestic violence incidents are prohibited from possessing, handling and issued firearms or ammunition even if it is a condition of employment, as determined by a court order. (See the Glossary of Terms.)

- 2.1 The Misdemeanor Crime of Domestic Violence includes any offense that meets the following criteria:
 - 2.1.1 The offense is a misdemeanor under federal or state law, and;
 - 2.1.2 The offense includes the use or attempted use of physical force, or the threatened use of a deadly weapon, and;
 - 2.1.3 The employee's relationship to the victim at the time of the offense falls into one or more of the following categories:
 - 2.1.3.1 The relationship between the victim and the employee is one of marriage or former marriage or of persons residing or having resided in the same household.
 - 2.1.3.2 The victim and employee have a child in common.
 - 2.1.3.3 The victim or the defendant is pregnant by the other party.
 - 2.1.3.4 The victim is related to the employee or the employee's spouse by blood or court order as a parent, grandparent, child, grandchild, brother or sister or by marriage as a parent-in-law, grandparent-in-law, stepparent, step-grandparent, stepchild, step-grandchild, brother-in-law or sister-in-law.
 - 2.1.3.5 The victim is a child who resides or has resided in the same household as the employee and is related by blood to a former spouse of the employee or to a person who resides or who has resided in the same household as the employee.
 - 2.1.3.6 The relationship between the victim and the employee is currently or was previously a romantic or sexual relationship. The following factors may be considered in determining the status of the relationship:

- 2.1.3.6.1 The type of relationship.
- 2.1.3.6.2 The length of the relationship.
- 2.1.3.6.3 The frequency of the interaction between the victim and the employee.
- 2.1.3.6.4 If the relationship has terminated, the length of time since the termination.

2.2 Expungement, Pardon, or Restoration of Civil Rights – The employee shall not be considered to have been convicted of a Misdemeanor Crime of Domestic Violence when one of the following exceptions has occurred:

- 2.2.1 The conviction has been dismissed, expunged or set aside.
- 2.2.2 The employee has been pardoned for the offense.
- 2.2.3 The employee has had his/her civil rights restored, if the law of the jurisdiction in which the case was tried provides for the loss of civil rights upon conviction of the offense.
- 2.2.4 The pardon, expungement, or restoration of civil rights does not expressly provide that the employee may not ship, transport, possess, or receive firearms. The employee must obtain an Order from the court reinstating their right to possess firearms.

2.3 Procedures for Enforcement

- 2.3.1 Employees shall:
 - 2.3.1.1 Complete the Self-Disclosure Certification, Form 523-1, to self-disclose any conviction outlined in 2.1.1 through 2.1.3.6.4 of this section.
 - 2.3.1.2 Pursue any legal action necessary to bring the conviction within one of the exceptions as outlined in 2.2.1 through 2.2.4 of this section.
 - 2.3.1.3 Obtain any documentation supporting an exception.
 - 2.3.1.4 Within 90 calendar days of the date of self-disclosure:
 - 2.3.1.4.1 Provide any documentation supporting an exception to the Administrative Investigations Supervisor or designee.
 - 2.3.1.4.2 Notify the Administrative Investigations Supervisor or designee of the status of any efforts to obtain the documentation necessary to establish an exception (i.e., waiting for court action or requested documents).
- 2.3.2 Self-Disclosure
 - 2.3.2.1 Self-disclosure shall be required by all employees who:
 - 2.3.2.1.1 Are or may be required to possess or receive firearms or ammunition in the performance of their duties.

- 2.3.2.1.2 Have ever been convicted of a felony and/or misdemeanor crime of domestic violence, as defined in the Glossary of Terms, including convictions that may fall within one of the exceptions.
 - 2.3.2.2 Upon completion of the Self-Disclosure Certification form, employees shall submit, through their chain of command, the original completed documents.
 - 2.3.2.2.1 Staff shall be required to complete the Self-Disclosure Certification each year during annual weapons qualification.
- 2.4 Upon receipt of the Notice of Self-Disclosure and supporting documents, supervisors shall:
 - 2.4.1 Immediately email the submitted documents to the Administrative Investigations Supervisor or designee.
 - 2.4.2 Submit the original documents through the chain of command to the Administrative Investigations Supervisor or designee.
 - 2.4.3 Take from the employee any and all firearms or ammunition within his/her possession or control.
 - 2.4.4 Ensure the duties assigned to the employee do not violate the restriction against the possession, receipt, or control of firearms or ammunition.
 - 2.4.5 Advise the employee he/she may request information from the Administrative Investigations Supervisor or designee regarding expungement, pardon, and restoration of civil rights.
 - 2.4.6 Within 90 calendar days of the date of self-disclosure, advise the employee that he/she may be subject to dismissal from employment if sufficient documentation is not provided by the employee to establish the conviction falls within one of the exceptions.
- 2.5 Upon receipt of the Notice of Self-Disclosure and supporting documents, the Administrative Investigations Supervisor or designee shall:
 - 2.5.1 Immediately submit to the self-disclosing employee information about obtaining an expungement, pardon, or restoration of civil rights in connection with the conviction.
 - 2.5.2 Initiate an administrative investigation as outlined in Department Order #601, Administrative Investigations and Employee Discipline.
 - 2.5.3 Enter the information received into the Administrative Investigations Unit (AIU) database for the purpose of tracking those employees who are or may be prohibited from possessing or receiving firearms or ammunition.
 - 2.5.4 Verify the conviction through court documentation and available police reports.
 - 2.5.5 With the assistance of Legal Services when necessary:
 - 2.5.5.1 Log the documentation received and identify the exception the documentation allegedly supports.

- 2.5.5.2 Review the documentation received to determine whether it is sufficient to establish an exception.
- 2.5.6 Make an appropriate entry in the AIU database and submit the administrative investigation file to the employee's approving authority when an employee:
 - 2.5.6.1 Has provided documentation that is sufficient to establish an exception.
 - 2.5.6.2 Has provided documentation in support of an exception, but the documentation is not sufficient.
 - 2.5.6.3 Does not provide documentation supporting an exception within 90 calendar days of the date of his/her self-disclosure; and the employee has not advised the Administrative Investigations Supervisor or designee that the documentation has been requested from the appropriate court or other authority.
 - 2.5.6.4 Does not provide documentation supporting an exception within 90 calendar days of the date of his/her self-disclosure, but the employee has advised the Administrative Investigations Supervisor or designee that such documentation has been requested from the appropriate court or other authority but has not yet received it.
- 2.6 Approving Authority Responsibilities – The approving authority shall:
 - 2.6.1 Review the completed administrative investigation.
 - 2.6.2 Rescind the restrictions prohibiting the employee from possessing, receiving, or controlling firearms or ammunition in the course of his/her employment duties when the completed administrative investigation shows the employee has established proof of an exception.
 - 2.6.2.1 The approving authority may return the employee to employment duties requiring that he/she be able to possess, use, or receive firearms or ammunition.
 - 2.6.3 Prepare recommendations relating to the employee's continued employment when the completed administrative investigation shows that the employee has failed to establish an exception. Recommendations may include:
 - 2.6.3.1 The need for a time extension in order to obtain the necessary exception or supporting documentation.
 - 2.6.3.2 An option for the employee's continued employment in a capacity not requiring the use of a firearm.
 - 2.6.3.3 The dismissal of the employee based on his/her inability to legally perform the essential job functions of the position.
 - 2.6.4 Submit the recommendations, the completed administrative investigation and the affected employee's work history to the Director, who will make the final decision on any action(s) to be taken.

3.0 WORKPLACE VIOLENCE

- 3.1 Employees found using work time, work phones, facsimile machines, electronic mail, or other state resources to commit an act of domestic violence or to threaten or abuse another person, may be subject to disciplinary action, up to and including dismissal and/or criminal prosecution in accordance with Department Order #601, Administrative Investigations and Employee Discipline.
- 3.2 Employees advised of possible threats or assaults shall take steps to protect themselves, others and the work environment.
 - 3.2.1 If the need for law enforcement intervention is imminent or immediate call 911 for an emergency police response.
 - 3.2.1.1 The caller shall advise the operator of the building address, floor and suite number.
 - 3.2.1.2 Once on-site security and law enforcement have been called, the supervisor shall contact the CIU and provide the same information.
 - 3.2.2 Employees who are threatened or assaulted while at work shall immediately notify their supervisor. The supervisor may refer the employee for assistance, in accordance with Department Order #521, Employee Assistance Program.
 - 3.2.3 Employees injured while at work shall:
 - 3.2.3.1 Report the injury in accordance with Department Order #519, Employee Health – State/Federal Programs and Assignments.
 - 3.2.3.2 Complete an Information Report, Form 105-2, in accordance with Department Order #105, Information Reporting.
 - 3.2.4 Any employee who is a witness to the threat or assault of another employee while at work shall notify his/her supervisor and write a supplemental using the Information Report.
 - 3.2.5 Any employee who believes he/she is being subjected to verbal abuse shall:
 - 3.2.5.1 Immediately notify his/her supervisor.
 - 3.2.5.2 Complete an Information Report, in accordance with Department Order #105, Information Reporting.
- 3.3 When a potentially dangerous situation is brought to the attention of a supervisor, he/she shall immediately evaluate the severity of the situation and determine if there is an imminent risk to the safety of the employee(s). If it is concluded there is likelihood that violence could result, the supervisor:
 - 3.3.1 Shall, in all instances, ensure appropriate members in his/her chain of command and the Inspector General are informed of the incident. The Inspector General shall:
 - 3.3.1.1 Determine if an investigation is warranted and, if so, whether the CIU or another agency shall conduct the investigation.

- 3.3.1.2 Determine what type of investigation shall be conducted.
- 3.3.2 May use available Department resources, such as the Employee Relations Unit, the CIU and/or the Critical Incident Response Team (CIRT).
- 3.3.3 Shall, if immediate law enforcement response is not needed, call on-site security or CIU. All Department supervisors shall be familiar with the security services for their areas of responsibility and implement Department Order #706, Incident Command System (ICS).
- 3.3.4 Shall, in cases where a supervisor or manager has advanced information of a potentially dangerous person:
 - 3.3.4.1 Obtain a description, and picture if available, of the subject.
 - 3.3.4.2 Ensure all information relating to an employee's involvement in domestic violence is kept confidential, to the extent possible, and is not made part of the employee's personnel file.
 - 3.3.4.3 Maintain a level of confidentiality by discussing the situation with only the employees who are likely to come in contact with the subject and providing to those employees:
 - 3.3.4.3.1 A description of the individual whose contact has been restricted.
 - 3.3.4.3.2 Instructions on actions to be taken if the subject enters the workplace.
 - 3.3.4.4 Provide the same information to CIU and building security personnel. Dependent upon the severity of the threat, options may include:
 - 3.3.4.4.1 Calling on-site security personnel.
 - 3.3.4.4.2 Calling 911 for emergency police response. If the telephone requires a 9 to access an outside line, press 9-911.
 - 3.3.4.4.3 Calling CIU directly.
- 3.3.5 Shall refer the employee to the appropriate referral services for assistance.
- 3.3.6 Shall, if the situation involves employees who work together, separate the employees by administratively reassigning one or both of them pending completion of an investigation as outlined in Department Order #601, Administrative Investigations and Employee Discipline, and/or Department Order #608, Criminal Investigations.
- 3.4 Employees involved in a personal, non-criminal, dispute may obtain an Order of Protection, an Injunction Against Harassment, or similar Orders from a court.
 - 3.4.1 When an employee requests such a court order, he/she shall include the work location as well as his/her place of residence with the Order. The employee shall:

- 3.4.1.1 Complete an Information Report naming all involved individuals, to include other state employee(s) as applicable, and inform the reporting employee's supervisor. The supervisor shall inform the CIU and provide them with a copy of the employee's report.
- 3.4.1.2 Provide a copy of the order and a description of the individual cited in the order, including a picture/photograph if possible, to the reporting employee's supervisor. The supervisor shall then provide a copy of the Order and the picture/photograph to the CIU.
- 3.5 In all situations involving domestic violence, supervisors shall:
 - 3.5.1 Review the safety of parking arrangements. If possible, have the threatened employee escorted to his/her vehicle by security staff, leave work with other employees, or call Capitol Police if working in the Capitol Complex.
 - 3.5.2 Not penalize or discipline an employee for being a victim of domestic violence.
 - 3.5.3 Refer employees to the appropriate referral services or to the Employee Relations Unit for an updated list of services available for survivors or victims of domestic violence.
- 3.6 Employees may contact an intervention program or the Employee Relations Unit for assistance and a list of available services without going through their supervisor.

4.0 REDACTION OF PERSONAL INFORMATION

- 4.1 Eligible Department employees who believe their life or safety or another person is in danger and wish to restrict the general public's access to their information may seek to complete an Application for Affidavit to Restrict Public Access. Information is available from the Arizona Judicial Branch at: <https://www.azcourts.gov>.
 - 4.1.1 The affidavit must be printed, signed, notarized and submitted to Human Resources and Development Group (HRDG) Deputy Chief Human Resources Officer or designee, who will submit the affidavit to the General Counsel for filing with the applicable County Recorder, County Assessor and County Treasurer.
 - 4.1.1.1 This affidavit will request the general public be prohibited from accessing personal information to include:
 - 4.1.1.1.1 The unique identifier and the recording date contained in indices of recorded instruments maintained by the County Recorder.
 - 4.1.1.1.2 The person's full legal name, residential address and telephone number.
 - 4.1.1.1.3 Full legal description and parcel number of the person's property.
 - 4.1.1.1.4 The person's current position and a description of his/her duties.

- 4.1.1.1.4.1 Persons who are protected under an Order of Protection or Injunction Against Harassment may submit an affidavit to have their position redacted. A copy of the Order/ Injunction must be attached to the affidavit.
- 4.1.1.1.5 The reasons the person reasonably believes his/her life or safety or that of another person is in danger and restricting access will serve to reduce the danger.
- 4.1.1.1.6 Information on application forms developed by the administrative offices of the courts in agreement with an association of counties, an organization of Peace Officers and the Motor Vehicle Division of the Arizona Department of Transportation.
- 4.2 The County Recorder, County Assessor and County Treasurer shall remove the restrictions on all records restricted pursuant to this section by January 5 in the year after the court order expires. The redaction shall be in effect for five years.
- 4.2.1 The County Assessor and the County Treasurer shall send the employee or Department one notification of the order's expiration date at least six months before the expiration date. If the notification is sent to the Department, the Department shall notify the affected employee of the upcoming expiration date.
- 4.2.2 The County Assessor may coordinate with the County Treasurer to prevent multiple notices from being sent to the same person.

IMPLEMENTATION

Within 90 calendar days of the effective date of this Department Order, the Staff Development and Training Unit shall review training for all employees that addresses the information presented in this Department Order, and update the material as appropriate.

DEFINITIONS/GLOSSARY

Refer to the Glossary of Terms for the following:

- Course of Conduct
- Crime Victim or Survivor
- Domestic Violence
- Domestic Violence Convictions
- Workplace Violence

ATTACHMENTS

Attachment A - Promoting a Safer Work Environment

FORMS LIST

523-1, Self-Disclosure Certification

AUTHORITY

A.R.S. §8-420, Right to Leave Work; Scheduled Proceedings; Employment Rights; Nondiscrimination; Confidentiality; Definition

A.R.S. §11-483, Records Maintained By County Recorder; Confidentiality; Definitions

A.R.S. §11-484, Records Maintained By County Assessor and County Treasurer; Redaction; Definitions

A.R.S. §12-1809, Injunction Against Harassment; Petition; Venue; Fees; Notices; Enforcement; Definition

A.R.S. §13-3601, Domestic Violence; Definition; Classification; Sentencing Option; Arrest and Procedure for Violation; Weapon Seizure

A.R.S. §13-3602, Order of Protection; Procedure; Contents; Arrest for Violation; Penalty; Protection Order From Another Jurisdiction; Definition

A.R.S. §13-4439, Right To Leave Work; Scheduling Proceedings; Counseling; Employment Rights; Nondiscrimination; Confidentiality; Definition

A.R.S. §16-153, Voter Registration; Confidentiality; Definitions

A.R.S. §28-454, Records Maintained by Department of Transportation; Redaction; Definitions

A.R.S. §39-123, Information Identifying Eligible Persons; Confidentiality; Definitions

A.R.S. §39-124, Releasing Information Identifying an Eligible Person; Violations; Classification; Definitions

Federal Gun Control Act of 1968, Lautenberg Amendment, 1996

ATTACHMENT A

PROMOTING A SAFER WORK ENVIRONMENT

- Consider obtaining a civil order for protection and make sure it is current and on hand at all times. Include the workplace on the order. A copy should be provided to the Capitol Police or local police, supervisors, the reception area, legal department and security. Ask co-workers and/or supervisors to call the police if the perpetrator threatens or harasses you at work or violates the civil order for protection in any way.
- Consider providing a picture of the perpetrator to reception areas or security.
- Consider identifying an emergency contact person should your employer be unable to contact you.
- Review the safety of your parking arrangements.
- Consider having security staff escort you to and from your car or public transportation and/or obtaining special parking access.
- Consider requesting a change and/or unpredictable rotation of your work schedule, work site, or work assignment if such a change is possible and would enhance your safety at work.
- Consider having your telephone calls at work screened.
- Consider requesting additional security measures for your work site.
- Review the safety of your child care arrangements. If you have a protection order, ensure the childcare provider is provided a copy.

AVAILABLE SERVICES FOR DOMESTIC VIOLENCE

- The Department's Office of Victim Services – 602-542-1853
- The National Domestic Violence Hotline – 1-800-799-7233
- The Employee Assistance Program (EAP) – 1-877-327-2362; ID HN8876C
- Behavioral Health Crisis Lines are available 24/7
 - Cochise, Graham, Greenlee, La Paz, Pima, Pinal, Santa Cruz or Yuma Counties or on the San Carlos Apache Reservation - Southern Arizona Crisis Line – 1-866-495-6735
 - Maricopa County - Maricopa County Crisis Line – 1-602-222-9444 or 1-800-631-1314
 - Gila County – CRN – 1-877-756-4090
 - If part of the Tohono O'Odham Nation – Tohono O'Odham Nation Crisis Line – 1-844-423-8759
- Community Information and Referral Services – (602) 263-8856 – Area codes 520 and 928 - 1-800-352-3792
- Arizona Coalition to End Sexual and Domestic Violence (ACESDV) (602) 279-2900 and 1-800-782-6400