



Appendix

Contents

Military Acronyms..... 71

Handbook Assessment Form 74

Memoranda from the Department of Defense:

Department of Defense Instruction Number 1342.24 – Transitional Compensation for Abused Dependents (May 23, 1995)..... 75

Deputy Secretary of Defense Memorandum: Domestic Violence (November 19, 2001) 83

Assistant Secretary of Defense Memorandum: Enlistment Waivers for Domestic Violence-Related Convictions (January 22, 2002)..... 85

Under Secretary of Defense Memorandum: Department of Defense (DoD) Policy for Implementation of Domestic Violence Misdemeanor Amendment to the Gun Control Act for Military Personnel (November 27, 2002) 86

Under Secretary of Defense Memorandum: Department of Defense (DoD) Policy for Implementation of Domestic Violence Misdemeanor Amendment to the Gun Control Act for DoD Civilian Personnel (November 27, 2002) 92

Under Secretary of Defense Memorandum: Implementation of the Armed Forces Domestic Security Act (November 1, 2003)..... 98

Under Secretary of Defense Memorandum: Establishing Domestic Violence Memoranda of Understanding Between Military and Local Civilian Officials (January 29, 2004) 100

Under Secretary of Defense Memorandum: Domestic Abuse Training for Chaplains (January 29, 2004) 112

Under Secretary of Defense Memorandum: Domestic Abuse Response and Intervention Training for Commanding Officers and Senior Enlisted Personnel (February 3, 2004) 117

Under Secretary of Defense Memorandum: Domestic Abuse Identification and Assessment Training for Health Care Providers (February 6, 2004)	123
Department of Defense Per Diem, Travel and Transportation Allowance Committee Memorandum: Uniformed Travel Determination – MAP 55-03 – Travel and Transportation for Dependents Relocating for Reasons of Personal Safety (FY04 DAA)	128
Under Secretary of Defense Memorandum: Military Protective Orders (March 10, 2004)	132
Department of Defense Instruction Number 1030.2: Victim and Witness Assistance Procedures (June 4, 2004)	137
Under Secretary of Defense Memorandum: Duration of Payment for Transitional Compensation for Abused Dependents (June, 14, 2004)	160
Under Secretary of Defense Memorandum: Clarifying Guidance Concerning the DD Form 2873, Military Protective Order (July 14, 2004)	161
Under Secretary of Defense Memorandum: Establishing Protocols for Law Enforcement and Command Responses to Domestic Violence Involving Military Members on Active Duty (October 22, 2004)	163
Under Secretary of Defense Memorandum: Domestic Abuse Victim Advocate Program (February 17, 2005)	171
Deputy Secretary of Defense Memorandum: Restricted Reporting Policy for Incidents of Domestic Abuse (January 22, 2006)	191

Definitions of Military Acronyms

This list of acronyms refers to those you will find in this document. The meaning of other military acronyms can be found at this Website: www-lib.iupui.edu/subjectareas/gov/military.html.

- CO** **Commanding Officer**
An officer who lawfully exercises authority over subordinates by virtue of rank or assignment.
- CONUS** **Continental United States**
Military installations that are located in the continental United States.
- CPO** **Civil Protection Order**
A civil remedy issued by a civilian court providing various forms of relief for victims of domestic abuse.
- CRB** **Central Registry Board**
Air Force specific multi-disciplinary group of military and civilian practitioners that meet to hear information about incidents of domestic violence and child abuse, and make a determination about substantiation of abuse.
- DEERS** **Defense Enrollment Eligibility Reporting System**
A computerized database of military sponsors, families and others worldwide who are entitled under the law to TRICARE (health) benefits.
www.tricare.mil/
- DoD** **Department of Defense**
The mission of the Department of Defense is to provide the military forces needed to deter war and to protect the security of our country. The department's headquarters is at the Pentagon.
- DTFDV** **Defense Task Force on Domestic Violence**
A group of military and civilian representatives assigned to assess the DoD response to domestic violence and to make recommendations for improvements.
- ERD** **Early Return of Dependents**
Early return of Dependents is authorized transportation of a service member's dependents and shipment of household goods at government expense because of official or personal situations which justify such authorization.
- FAP** **Family Advocacy Program**
Military support and services program to assist family members who are experiencing abuse. It also convenes a multi-disciplinary committee of military and civilian practitioners that meet to hear information about incidents of domestic violence and child abuse, make a determination about substantiation of abuse, and provide recommendations for treatment for the abuser and support services for the family. These recommendations are given to the command.

- FAPO Family Advocacy Program Officer**
An officer assigned to work on issues of family abuse in the Marine Corps who may be assigned to the FAP program. Called the FAP Manager (FAPM) in the Army, the Family Advocacy Representative (FAR) in the Navy, and the Family Advocacy Officer (FAO) in the Air Force.
- JAG Judge Advocate General**
Military attorney
- JFTR Joint Federal Travel Regulation**
Regulations that govern conditions and allowances for all government travel, including relocation of service members and their families.
- LES Leave and Earnings Statement**
A monthly statement for service members, documenting how much they earned for basic pay and pay for special assignments; what allowances they received for food, housing, and clothing; as well as what deductions were taken out of their pay for allotments, child support, insurance, and taxes.
- MCIO Military Criminal Investigative Organization**
An installation detachment of military law enforcement personnel in plain-clothes who investigate reports of crimes that would be felonies in the civilian community. They are the Army Criminal Investigative Division (CID), Naval Criminal Investigative Service (NCIS) for the Navy and Marine Corps, and the Air Force Office of Special Investigations (AFOSI).
- MP Military Police**
Service members in the Army and Marine Corps who are trained and assigned as law enforcement personnel. They are first responders in the military community and are called Security Forces (SF) in the Air Force.
- MPO Military Protective Order**
A direct order from a commander to a service member providing relief similar to a civilian protective order, but only enforceable on the military installation.
- NJP Non-Judicial Punishment**
Disciplinary action initiated by command, not a trial, no lawyers involved. May result in reprimand, loss of pay, restriction, confinement to quarters, etc.
- PCS Permanent Change of Station**
A transfer to a new duty station at least 50 miles from the service member's current assignment.
- PMO Provost Marshal's Office**
The office that oversees the military police department.
- SECDEF Secretary of Defense**
The principal defense policy advisor to the President of the United States

- SOFA** **Status of Forces Agreement**
www.fm/jcn/compact/sofa.html
Governs jurisdictional issues regarding US forces in other countries.
- SSCRA** **Soldiers and Sailors Civil Relief Act**
www.defenselink.mil/specials/Relief_Act_Revision/
This act can delay all civil court actions for service members, such as divorce proceedings, foreclosures and bankruptcy.
- TC** **Transitional Compensation**
Provides financial support to abused family members to reduce victim disincentives to reporting abuse and to remove the threat of financial retribution.
- UCMJ** **Uniform Code of Military Justice**
www.au.af.mil/au/awc/awcgate/awc-law.htm#ucmj
Congressionally-enacted Code of Military Criminal Law applicable to all military members worldwide.
- USSPA** **Uniformed Services Former Spouse Protection Act**
www.dfas.mil/money/garnish/usfspacp.pdf
Recognizes the right of State Courts to distribute military retired benefits to a spouse under certain circumstances.
- VAWA** **Violence Against Women Act**
www.usdoj.gov/ovw/
An Act creating and combining federal laws with assistance to states to fight violence against women.

Handbook Assessment/Feedback Form

NAME: _____

ORGANIZATION: _____

TELEPHONE: _____

EMAIL: _____

DATE: _____

Please return this form to:
Battered Women's Justice Project
2104 4th Avenue South, Suite B
Minneapolis, MN 55404
800-903-0111, ext. 1
csponsler@bwjp.org

1. How are you using the Handbook?
2. What is most helpful about the Handbook?
3. What did you find unhelpful or problematic? (Please be as specific as possible.)
4. Suggestions for future changes:
5. Information/strategies/materials you would like to share with other advocates (please attach or enclose):
6. Other feedback/suggestions:
7. Are you interested in receiving training?



Department of Defense INSTRUCTION

NUMBER 1342.24

May 23, 1995

Administrative Reissuance Incorporating Change 1, January 16, 1997

USD(P&R)

SUBJECT: Transitional Compensation for Abused Dependents

- References: (a) Assistant Secretary of Defense (Force Management Policy) Memorandum, "Implementation of Transitional Compensation for Abused Dependents," January 24, 1995 (hereby canceled)
- (b) Sections 801-940, 860(c), 1059, 1077, and 1408(h) of title 10, United States Code
- (c) Sections 1311(a)(1), 1311(b), and 1313 of title 38, United States Code

1. PURPOSE

This Instruction:

1.1. Supersedes reference (a).

1.2. Implements policy, assigns responsibilities, and prescribes procedures under 10 U.S.C. Sec. 1059 (reference (b)) for the payment of monthly transitional compensation to dependents of members separated for dependent abuse.

2. APPLICABILITY AND SCOPE

This Instruction applies to:

2.1. The Office of the Secretary of Defense and the Military Departments (including Coast Guard when it is operating as a Service in the Navy).

2.2. Dependents of members of the Armed Forces who have been on active duty for more than 30 days and who, *after November 29, 1993, are:*

DODI 1342.24, May 23, 1995

2.2.1. Separated from active duty under a court-martial sentence resulting from a dependent-abuse *offense*;

2.2.2. Administratively separated from active duty if the basis for separation includes a dependent-abuse *offense*; or

2.2.3. *Sentenced to forfeiture of all pay and allowances by a court-martial which has convicted the member of a dependent-abuse offense.*

3. DEFINITIONS

3.1. Dependent-Abuse Offenses. A dependent-abuse offense is conduct by an individual while a member of the Armed Forces on active duty for a period of more than 30 days that involves abuse of the then-current spouse or a dependent child of the member and that is a criminal offense defined by 10 U.S.C. Secs. 801-940 (reference (b)) or other criminal code applicable to the jurisdiction where the act of abuse is committed. The term "involves abuse of the then-current spouse or a dependent child" means that the criminal offense is against the person of that spouse or a dependent child. Crimes that may qualify as "dependent-abuse offenses" are ones such as sexual assault, rape, sodomy, assault, battery, murder, and manslaughter. (This is not an exhaustive or exclusive listing of dependent-abuse offenses, but is provided for illustrative purposes only.)

3.2. Dependent Child. An unmarried child, including an adopted child or a stepchild, who was residing with the member at the time of the dependent-abuse offense, and who is:

3.2.1. Under 18 years of age;

3.2.2. Eighteen years of age or older and is incapable of self-support because of a mental or physical incapacity that existed before the age of 18 and who is (or, when a punitive or other adverse action was carried out on the member, was) dependent on the member for over one-half of the child's support; or

3.2.3. Eighteen years of age or older, but less than 23 years of age, is enrolled in a full-time course of study in an institution of higher learning approved by the Secretary of Defense and who is (or, when a punitive or other adverse action was carried out on the member, was) dependent on the member for over one-half of the child's support.

DODI 1342.24, May 23, 1995

3.3. Member. The term "member" includes "former member," where appropriate.

3.4. Spouse. The term "spouse" means a dependent spouse and, where appropriate, includes "former spouse."

4. POLICY

It is DoD policy to make monthly payments of transitional compensation and provide other benefits described herein for dependents of members who are separated for dependent abuse.

5. RESPONSIBILITIES

5.1. The Assistant Secretary of Defense for Force Management Policy shall develop, publish, and maintain this Instruction and ensure compliance.

5.2. The Secretaries of the Military Departments shall appoint representatives to coordinate requests for transitional compensation, to approve requests, forward them to the Defense Finance and Accounting Service (DFAS), and notify DFAS of any action that affects payment of transitional compensation.

5.3. The Under Secretary of Defense (Comptroller)/Chief Financial Officer shall ensure that DFAS shall process payment requests forwarded by Service representatives.

6. PROCEDURES

6.1. Recipients of Payments. Payments shall be made to dependents described in paragraphs 2.2.1. or 2.2.2., above, as follows:

6.1.1. If the member was married when the offense occurred, payment shall be made to that spouse.

6.1.2. If there is a spouse who is ineligible to receive payment because of remarriage (under paragraph 6.3.1., below), cohabitation (under paragraph 6.3.2., below), or active participation (under paragraph 6.3.3., below), payments shall be made to each dependent child of the member who does not reside in the household of the member or the spouse.

DODI 1342.24, May 23, 1995

6.1.3. If there is no eligible spouse for reasons other than those in paragraphs 6.3.1. through 6.3.3., below (for example, because the member had no dependent spouse or the spouse has died), payments shall be made to the dependent children of the member who do not reside in the household of the member.

6.1.4. For paragraphs 6.1.2. and 6.1.3., above, status as a "dependent child" is determined as of the date on which the member is convicted of the offense or as of the date of the member's administrative separation, whichever is applicable.

6.1.5. If a recipient is incapable of handling his or her own affairs, payments may be made only to a court-appointed guardian. For a dependent child under 18 years of age, payments may be made only to a court-appointed guardian or a natural parent (who is not a spouse of the member), if the natural parent legally has custody of the dependent child.

6.2. Payments

6.2.1. Commencement and Duration

6.2.1.1. Payment shall commence on the date: the person acting under 10 U.S.C. Sec. 860(c) (reference (b)) approves the court-martial sentence that includes a dismissal, dishonorable discharge, or bad-conduct discharge; or the member's commander starts administrative separation action. The duration of payments shall be 36 months except, if, as of the starting date of payment, the unserved portion of the member's obligated active duty service is less than 36 months, the duration of payment shall be the greater of the unserved portion or 12 months.

6.2.1.2. No payment shall be made for any period before *November 30, 1993*.

6.2.1.3. For enlisted members, the "obligated active duty service" shall be the time remaining on their terms of enlistment. For officers, the "obligated active duty service" shall be indefinite unless an officer has a date of separation established, then it shall be the time remaining until the date of separation.

6.2.2. Amount

6.2.2.1. Monthly payments to a spouse shall be at the rate in effect for the payment of dependency and indemnity compensation under 38 U.S.C. Sec. 1311(a)(1) (reference (c)). If the spouse has custody of a dependent child or children

DODI 1342.24, May 23, 1995

of the member, the amount of monthly compensation to the spouse shall be increased for each child by the amount in effect under 38 U.S.C. Sec. 1311(b) (reference (c)). If there is no eligible spouse, compensation paid to a dependent child or children under 6.1.2. or 6.1.3., above, shall be paid in equal shares at the rate in effect under 38 U.S.C. Sec. 1313 (reference (c)).

6.2.2.2. Payments shall be prorated for months when payments start or stop in the middle of a month.

6.2.2.2.1. When paying children, if the payment amount does not divide evenly, the youngest child shall receive the odd cent.

6.2.2.2.2. If recipient dies, arrears of pay shall not be paid.

6.2.3. Cessation of Payments

6.2.3.1. Any payment of transitional compensation that has started under paragraph 6.2.1., above, shall stop effective as of the first day of the first month following the month in which the Secretary concerned notifies a recipient in writing that payment of transitional compensation shall cease because of subparagraph 6.2.3.1.1. or 6.2.3.1.2., below.

6.2.3.1.1. The member is sentenced by a court-martial to receive punishment that includes a dismissal, dishonorable discharge, or bad conduct discharge as a result of a conviction by a court-martial for a dependent-abuse offense and such punishment is remitted, set aside, or mitigated to a lesser punishment that does not include any such punishment.

6.2.3.1.2. The administrative separation of a member from active duty is proposed on a basis that includes a dependent-abuse offense and the proposed administrative separation is disapproved by competent authority under applicable regulations.

6.2.3.2. The recipient shall not be required to repay amounts of transitional compensation received before the effective date of cessation determined under subparagraph 6.2.3.1., above (except as necessary to recoup any amount that was erroneous when paid).

6.3. Forfeiture Provisions

6.3.1. Remarriage. If a spouse receiving payments remarries, payments

DODI 1342.24, May 23, 1995

terminate as of the date of the remarriage. Payment shall not be renewed if such remarriage is terminated. If the payments to the spouse terminate due to remarriage and there is a dependent child not living in the same household as the spouse or member, payments shall be made to the dependent child, as in paragraph 6.1.2., above.

6.3.2. Cohabitation

6.3.2.1. If the member resides in the same household as the spouse or dependent child to whom compensation is otherwise payable under this Instruction, payment shall terminate as of the date the member begins residing in such household.

6.3.2.2. Once terminated under subsection 6.3.2.1., above, payment shall not be resumed.

6.3.2.3. Compensation paid in accordance with this Instruction before the member resides in the household shall not be recouped.

6.3.3. Active Participant. If the victim was a dependent child, and the spouse has been found by competent authority designated by the Secretary concerned to have been an active participant in the conduct constituting the criminal offense or to have actively aided or abetted the member in such conduct against that dependent child, the spouse, or dependent child living with the spouse shall not be paid transitional compensation.

6.3.4. Annual Certification. The spouse must notify the DFAS within 30 days of the date of remarriage or the date the member begins residing in the same household as the spouse or dependent child. The spouse (or if applicable, the individual receiving payments under paragraph 6.1.5., above) shall annually certify to DFAS on a Certificate of Eligibility (COE) that he or she has not remarried and has not been cohabitating with the member. Dependent children (or if applicable, the individual receiving payments under paragraph 6.1.5., above) shall annually certify via the COE process that they are not cohabitating with the member or ineligible spouse.

6.4. Coordination of Benefits. A spouse may not receive payments under both sections 1059 and 1408(h) of 10 U.S.C. (reference (b)). If a spouse is otherwise eligible for both, the spouse must elect which to receive.

6.5. Source of Funds. Transitional compensation must be paid from operations and maintenance funds.

6.6. Application Procedures. An individual must initiate a request through a

DODI 1342.24, May 23, 1995

Service-appointed representative. The Service representative shall coordinate the collection of information necessary to determine the validity of the claim, the recipient(s), and duration of payments using DD Form 2698, "Application for Transitional Compensation." The Service representative shall approve payment and forward the application to DFAS at the following address:

DFAS-DE/FRB
6760 East Irvington Place
Denver, CO 80279-6000

Facsimile numbers:
DSN: 926-4667
COMM: (303) 676-4667

The DFAS point of contact is DFAS-DE/FRBS, at DSN: 926-4514 or COMM: (303) 676-4514.

6.7. Commissary and Exchange Benefits

6.7.1. Recipients are also entitled to use commissary and exchange stores while receiving their payments. They are allowed the same commissary and exchange privileges as a dependent of a member of the Armed Forces on active duty for a period of more than 30 days.

6.7.2. If a recipient eligible or entitled to use the commissary and exchange stores under paragraph 6.7.1., above, is also eligible or entitled under another law, eligibility and entitlement shall be determined under the other law and not paragraph 6.7.1., above.

6.8. Medical Benefits

6.8.1. *A dependent of a member who has been separated from a Uniformed Service due to a dependent-abuse offense may receive medical or dental care in facilities of the Uniformed Services or through the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS). Receipt of the medical or dental care is subject to the limitations in paragraphs 6.8.2. and 6.8.3., below.*

6.8.2. *Eligible dependents of a member who receives a dishonorable or bad-conduct discharge, is dismissed as a result of a court-martial, or is administratively separated from a Uniformed Service as a result of a dependent-abuse*

DODI 1342.24, May 23, 1995

offense are entitled to medical or dental care for problems associated with the abuse. Entitlement to such care is limited to a period of one year following the member's separation from the Uniformed Service, and eligibility will be granted only upon request to the Secretary of the Military Department concerned. The determination of whether an offense involved abuse of a dependent shall be made by the Secretary of the Military Department concerned.

6.8.3. Eligible dependents of a member who is retirement eligible, but who loses eligibility for retired pay because of dependent-abuse misconduct, may receive medical and dental care in accordance with section 1408(h) of 10 U.S.C. (reference (b)).

7. EFFECTIVE DATE:

This Instruction is effective immediately.



F. Pang
Principal Deputy Under Secretary of Defense
For Personnel and Readiness



DEPUTY SECRETARY OF DEFENSE
1010 DEFENSE PENTAGON
WASHINGTON, DC 20301-1010

NOV 19 2001

MEMORANDUM FOR SECRETARIES OF THE MILITARY DEPARTMENTS
CHAIRMAN OF THE JOINT CHIEFS OF STAFF
UNDER SECRETARIES OF DEFENSE
DIRECTOR, DEFENSE RESEARCH AND ENGINEERING
ASSISTANT SECRETARIES OF DEFENSE
GENERAL COUNSEL OF THE DEPARTMENT
OF DEFENSE
INSPECTOR GENERAL OF THE DEPARTMENT
OF DEFENSE
DIRECTOR, OPERATIONAL TEST AND EVALUATION
ASSISTANTS TO THE SECRETARY OF DEFENSE
DIRECTOR, ADMINISTRATION AND MANAGEMENT
DIRECTORS OF THE DEFENSE AGENCIES
DIRECTORS OF THE DOD FIELD ACTIVITIES

SUBJECT: Domestic Violence

Domestic Violence will not be tolerated in the Department of Defense (DoD). In Fiscal Year 2000, more than 10,500 physical and/or sexual assaults of a spouse were substantiated in the DoD Family Advocacy Program, with more than 5,200 active duty personnel identified as the alleged perpetrators.

Domestic violence is an offense against the institutional values of the Military Services of the United States of America. Commanders at every level have a duty to take appropriate steps to prevent domestic violence, protect victims, and hold those who commit it accountable.

Therefore, I call upon the leaders at all levels in the Department of Defense to make every effort to:

- provide timely information to new personnel and family members, to include lists of locally available military and civilian resources to prevent domestic violence, procedures for responses to reports of domestic violence, and information about the DoD Transitional Compensation Program;
- improve coordination between military and civilian community agencies that provide the first response to domestic violence issues and incidents, especially through negotiated agreements;



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- increase protection to victims through coordinated enforcement of civilian orders of protection affecting military personnel on DoD installations and military protective orders issued by commanding officers; and
- update and standardize education and training programs on domestic violence for commanding officers, senior noncommissioned officers, and personnel with law enforcement, health care, and legal responsibilities, to ensure those programs contain information on how to prevent domestic violence, how to recognize when it has occurred, and how to take action to protect victims and to hold offenders accountable as appropriate.

A handwritten signature in black ink, reading "Paul Wolfowitz". The signature is written in a cursive style with a long horizontal stroke at the end.

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OUSD(P&R) PI-LP

0002/0002

FORCE MANAGEMENT
POLICY

ASSISTANT SECRETARY OF DEFENSE
4000 DEFENSE PENTAGON
WASHINGTON, D.C. 20301-4000

JAN 22 2002



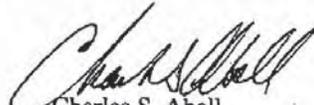
MEMORANDUM FOR ASSISTANT SECRETARY OF THE ARMY
(MANPOWER AND RESERVE AFFAIRS)
ASSISTANT SECRETARY OF THE NAVY
(MANPOWER AND RESERVE AFFAIRS)
ASSISTANT SECRETARY OF THE AIR FORCE
(MANPOWER AND RESERVE AFFAIRS)

SUBJECT: Enlistment Waivers for Domestic Violence-Related Convictions

In its initial report, the Defense Task Force on Domestic Violence (DTFDV) recommended that DoD review the appropriateness of enlistment waivers granted to individuals convicted of "domestic violence-related" offenses. The DTFDV found that some waivers have been granted in the case of convictions for offenses involving domestic violence in a broad sense, but falling outside the definition of domestic violence used in the domestic violence amendment to the Gun Control Act and DoD's interim policy implementing that amendment. For example, waivers have been granted in the case of convictions for violence against siblings.

The DTFDV did not substantiate any waivers granted in violation of DoD's interim policy, which prohibits the entrance into military service of anyone with a misdemeanor conviction for a crime of domestic violence. The term "crime of domestic violence" as used in the Act and the interim policy is an offense that has, as an element, the use or attempted use of physical force, or 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 cohabitating with or has cohabitated with the victim as a spouse, parent, or guardian, or by a person similarly situated to a spouse, parent or guardian of the victims.

I do not want to restrict Service authority to grant accession waivers in the case of convictions for offenses outside the coverage of DoD's interim policy implementing the domestic violence amendment to the Gun Control Act. Rather, the purpose of this memorandum is to bring the DTFDV's recommendation to your attention and suggest that you may want to review your Service's accession waiver procedures to ensure that waivers are granted only in appropriate cases. In light of the consequences of a domestic violence conviction committed after an individual enters military service, it may not be prudent to grant waivers in the case of convictions for crimes that are not technically domestic violence, but are similar.


Charles S. Abell



12/11/02 14:59

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PERSONNEL AND
READINESS

UNDER SECRETARY OF DEFENSE
4000 DEFENSE PENTAGON
WASHINGTON, D.C. 20301-4000



NOV 27

**MEMORANDUM FOR SECRETARIES OF THE MILITARY DEPARTMENTS
CHAIRMAN OF THE JOINT CHIEFS OF STAFF
UNDER SECRETARIES OF DEFENSE
DIRECTOR, DEFENSE RESEARCH AND ENGINEERING
ASSISTANT SECRETARIES OF DEFENSE
GENERAL COUNSEL OF THE DEPARTMENT OF DEFENSE
INSPECTOR GENERAL OF THE DEPARTMENT OF DEFENSE
DIRECTOR, OPERATIONAL TEST AND EVALUATION
ASSISTANTS TO THE SECRETARY OF DEFENSE
DIRECTOR, ADMINISTRATION AND MANAGEMENT
DIRECTOR, FORCE TRANSFORMATION
DIRECTOR, NET ASSESSMENT
DIRECTORS OF THE DEFENSE AGENCIES
DIRECTORS OF THE DEFENSE FIELD ACTIVITIES**

**SUBJECT: Department of Defense (DoD) Policy for Implementation of Domestic Violence
Misdemeanor Amendment to the Gun Control Act for Military Personnel**

This directive-type memorandum establishes DoD policy for implementing the domestic violence amendment to the Gun Control Act of 1968 (18 U.S.C. §§ 922(d)(9) and (g)(9)) for military personnel. It supersedes the memorandum of October 22, 1997, on this subject that provided interim DoD policy. DoD Components shall take all reasonable and necessary steps to implement this policy with regard to military personnel. For the purposes of this policy, the DoD Components include the Office of the Secretary of Defense, the Military Departments, the Chairman of the Joint Chiefs of Staff, the Combatant Commands, the Inspector General of the Department of Defense, the DoD Field Activities, and all other organizational entities of the Department of Defense.

The domestic violence amendment makes it a felony for any person to sell or otherwise dispose of firearms or ammunition to any person whom he or she knows or has reasonable cause to believe has been convicted of a "misdemeanor crime of domestic violence" (18 U.S.C. § 922(d)(9)). The amendment also prohibits anyone who has been convicted of a misdemeanor crime of domestic violence from shipping or transporting in interstate or foreign commerce, or possessing in or affecting commerce, any firearm or ammunition; or receiving any firearm or ammunition which has been shipped or transported in interstate or foreign commerce (18 U.S.C. § 922(g)(9)). (See attachment for definition of terms used in this memorandum.)

The law applies to misdemeanor crimes of domestic violence only. For purposes of this memorandum, however, a "qualifying conviction" also includes a conviction for a "crime of



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domestic violence" tried by general or special court-martial which otherwise meets the definition of a misdemeanor crime of domestic violence. Further, as a matter of DoD policy, a conviction for an offense meeting the definition of a "felony crime of domestic violence" adjudged on or after the date of this memorandum shall be considered a qualifying conviction for purposes of this memorandum. The term "qualifying conviction" does not include summary court-martial convictions, imposition of nonjudicial punishment (Article 15, UCMJ), or deferred prosecutions or similar alternative dispositions in civilian courts.

Each Military Department shall implement a program to periodically inform its military personnel of the domestic violence amendment to the Gun Control Act, its consequences, and this policy. Information provided shall include notice that personnel have an affirmative, continuing obligation to inform commanders or supervisors if they have, or later obtain, a qualifying conviction and that the revised DD Form 2760 (attached), which states that any statements made on the form will not be used in a prosecution for violating the Gun Control Act, is available. All DoD components shall post notices about the domestic violence amendment and DoD implementing policy in all facilities in which Government firearms or ammunition are stored, issued, disposed of, and transported.

If in implementing this policy a Military Department chooses to require that all or some of its military personnel certify whether or not they have a qualifying conviction, the DD Form 2760 shall be used for such certifications. Even if certification is not required, DD Form 2760 shall be made available for those personnel who come forward to report a qualifying conviction in compliance with their obligation to do so. The use of this form and the protections it affords have been approved in accordance with Section E of the 1984 Memorandum of Understanding Between the Departments of Justice and Defense Relating to the Investigation and Prosecution of Certain Crimes (see DoD Directive 5525.7). Each Military Department shall issue regulations governing how completed forms are to be filed and maintained to ensure they are retrievable if needed.

The Military Departments' procedures to discover whether an applicant for military service has a qualifying conviction for a crime of domestic violence shall continue in effect. Individuals with such convictions shall not be granted a waiver for entrance into military service.

In the case of all members found to have a qualifying conviction, appropriate authority will immediately retrieve all Government-issued firearms and ammunition, suspend the member's authority to possess government issued firearms or ammunition, and advise them to dispose of their privately owned firearms and ammunitions lawfully. These actions shall also be taken if there is reasonable cause to believe a military member has a qualifying conviction.

Consistent with applicable law and regulations, the Military Departments may promulgate regulations governing permanent adverse personnel actions, including discharge, that may be taken with respect to service members who have a qualifying conviction. Separation of military personnel shall comply with existing statutory military retirement sanctuaries (See 10 U.S.C. § 1176(a)(regular and reserve members); 10 U.S.C. § 637(a)(5)(regular officers); 10 U.S.C. § 580(a)(4)(C)(regular warrant officers); 10 U.S.C. § 12646(e)(1)(reserve commissioned officers); 10 U.S.C. § 12686 (reserves on active duty). A service member in any of these

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sanctuaries who has a "qualifying conviction" and would otherwise be separated under Military Department regulations shall be given meaningful duties that do not entail access to firearms or ammunition until they are retired upon first attaining eligibility.

DoD Components may afford military personnel who have qualifying convictions a reasonable time to obtain an expungement or pardon of the qualifying conviction. If time is granted to a service member for this purpose, however, DoD Components shall retrieve all Government-owned or issued firearms and ammunition and suspend the service member's authority to possess firearms and ammunition until an expungement or pardon is obtained.

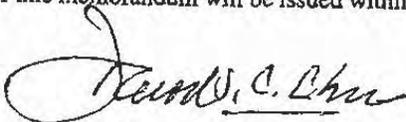
Military Departments shall issue policies and procedures to ensure compliance with the domestic violence amendment to the Gun Control Act with respect to privately owned firearms under Government control or permitted in Government quarters. Policies and procedures shall also be issued governing the transfer of firearms and ammunition to individuals in morale, welfare, and recreation activities and other Government-sponsored or sanctioned activities.

If a completed security clearance investigation reveals that a military member has a qualifying conviction, the investigation shall be referred to the requesting DoD component for action consistent with this policy.

The actions required by this memorandum apply outside United States territory as a matter of policy. The Department has not construed the amendment to apply to major military weapon systems or "crew served" military weapons and ammunition (tanks, missiles, aircraft, etc.).

The Military Departments are requested to forward copies of their implementing instructions or regulations not later than 120 days from the date of this memorandum.

This memorandum is effective immediately. A DoD Directive or Instruction incorporating the substance of this memorandum will be issued within 120 days.



David S. C. Chu

Attachments:
As stated

DEFINITION OF KEY TERMS
DoD IMPLEMENTATION OF DOMESTIC VIOLENCE AMENDMENT

For purposes of the DoD policy to implement the domestic violence amendment to the Gun Control Act of 1968, the following definitions shall apply:

- The term "firearm" means (A) any weapon (including a starter gun) which will, or is designed to, or may readily be converted to, expel a projectile by the action of an explosive; (B) the frame or receiver of any such weapon; and (C) any firearm muffler or firearm silencer; or (D) any destructive device. However, it does not include major military weapons systems or "crew served" military weapons (tanks, missiles, aircraft, etc.)
- The term "destructive device" means (A) any explosive, incendiary, or poison gas bomb, grenade, mine, or any such rocket having a propellant charge of more than four ounces, or any such missile having an explosive or incendiary charge of more than one-quarter ounce, or any device similar to any of the devices described in the preceding clauses; (B) any type of weapon by whatever name known which will, or which may be readily converted to, expel a projectile by the action of an explosive or other propellant, and which has any barrel with a bore of more than one-half inch in diameter; and (C) any combination of parts either designed or intended for use in converting any device into any destructive device described in subparagraph (A) or (B) and from which a destructive device may be readily assembled. *Provided, however,* that the term "destructive device" shall not include any device which is neither designed nor redesigned for use as a weapon nor shall include any device, although originally designed as a weapon, which is redesigned for use as a signaling, pyrotechnic, line throwing, safety, or similar device.
- The term "ammunition" means ammunition or cartridge cases, primers, bullets, or propellant powder designed for use in any firearm. However, it does not include ammunition for major military weapon systems or "crew served" military weapons systems.
- The term "possession" includes both "active possession" and "constructive possession," whether authorized or unauthorized. Active possession of a firearm or ammunition exists when the firearm or ammunition is in the immediate possession of the person. Constructive possession exists when a person does not have actual possession but instead knowingly has the power and at a given time to exercise dominion and control over the firearm or ammunition, either directly or through others. Possession need not be exclusive but may be joint with others.
- The term "reasonable cause" means that there is reliable information that a reasonable, prudent person would rely on which makes it more likely than not that the individual has a qualifying conviction.
- The term "receive" means to obtain, to take, to accept, to acquire, or to come into possession of.

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- The term "dispose" means to exercise control over, to direct or to assign for use, or to alienate, bargain away, bestow, convey, exchange, give away, or transfer by authority.
- The term "transport" means to move, convey, carry, by any means, or to deliver or receive for the purpose of movement or conveyance.
- The term "ship" means the transportation, or the effecting of transportation, without limitation as to the means or facilities used or with respect to the person to whom any shipment is made.
- The term "interstate or foreign commerce" includes commerce between any place in a state and any place outside of that state, or within any possession of the United States (not including the Canal Zone) or the District of Columbia, but such term does not include commerce between places within the same state but through any place outside of that state.
- The term "crime of domestic violence" means an offense that has as its factual basis, the use or attempted use of physical force, or 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 cohabitating with or has cohabitated with the victim as a spouse, parent, or guardian, or by a person similarly situated to a spouse, parent or guardian of the victims.
- The term "misdemeanor crime of domestic violence" is a "crime of domestic violence" that is classified as a misdemeanor under State or Federal law.
- The term "felony crime of domestic violence" is a "crime of domestic violence" that is classified as a felony under State or Federal law.
- The term "qualifying conviction" applies to any of the following: (1) a State or Federal conviction for a "misdemeanor crime of domestic violence;" (2) a State or Federal conviction for a "felony crime of domestic violence" adjudged on or after the date of this memorandum, and (3) any general or special court-martial conviction for a Uniform Code of Military Justice offense which otherwise meets the elements of a "crime of domestic violence," even though not classified as a misdemeanor or felony.

A person shall not be considered to have a qualifying conviction unless the convicted offender was represented by counsel, or knowingly and intelligently waived the right to counsel and, if entitled to have the case tried by jury or before court-members, the case was actually tried by a jury or court members or the person knowingly and intelligently waived the right to have the case tried by a jury or court members, and;

A person shall not be considered to have a qualifying conviction if the conviction has been expunged or set aside, or the convicted offender has been pardoned for the offense or had civil rights restored, unless the pardon, expungement, or restoration of civil rights provides that the person may not ship, transport, possess, or receive firearms.

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QUALIFICATION TO POSSESS FIREARMS OR AMMUNITION								
<p style="text-align: center;">PRIVACY ACT STATEMENT</p> <p>AUTHORITY: 18 U.S.C. 922(g)(9); E.O. 9397.</p> <p>PRINCIPAL PURPOSE(S): To obtain information to determine if you have been convicted of a crime of domestic violence which would disqualify you from shipping, transporting, possessing or receiving either Government-issued or private firearms or ammunition and to determine if reassignment, reclassification, detail or other administrative action is warranted. Your Social Security Number is solicited solely for purposes of verifying your identity.</p> <p>ROUTINE USE(S): To the Department of Justice so that such information can be included in the National Instant Criminal Background Check System which may be used by firearm licensees (importers, manufacturers or dealers) to determine whether individuals are qualified to receive or possess firearms and ammunition.</p> <p>DISCLOSURE: Mandatory for all personnel who are required to certify. Failure to provide the information may result in (1) (military only) the imposition of criminal or administrative penalties for failing to obey a lawful order, and (2) (civilian only) the imposition of administrative penalties, to include removal from Federal service. However, neither your answers nor information or evidence gained by reason of your answers can be used against you in any criminal prosecution for a violation of Title 18, United States Code, Section 922(g)(9), including (military only) prosecutions under the Uniform Code of Military Justice, based on a violation of Section 922(g)(9), for conduct which occurred prior to the completion of this form. The answers you furnish and any information resulting therefrom, however, may be used against you in a criminal or administrative proceedings if you knowingly and willfully provide false statements or information.</p>								
<p>SECTION I - INSTRUCTIONS</p> <p>An amendment to the Gun Control Act of 1968 (18 U.S.C. 922) makes it a felony for anyone who has been convicted of a misdemeanor crime of domestic violence to ship, transport, possess, or receive firearms or ammunition. It is also a felony for any person to sell or otherwise dispose of a firearm to any person so convicted.</p> <p>The Department of Defense has, by policy, expanded the prohibitions contained in Title 18 Section 922(g)(9) to those military or civilian personnel who have felony convictions for crimes of domestic violence. Convictions of crimes of domestic violence do not include summary court-martial convictions, the imposition of nonjudicial punishment (Article 15, UCMJ), or deferred prosecutions (or similar alternative dispositions) in civilian courts. Furthermore, a person shall not be considered as having committed a "crime of domestic violence" for purposes of the firearms restriction of the Gun Control Act unless all of the following elements are present:</p> <p>(1) the person was convicted of a crime;</p> <p>(2) the offense has as its factual basis the use or attempted use of physical force, or threatened use of a deadly weapon;</p> <p>(3) the convicted offender was at the time of the offense:</p> <p style="margin-left: 20px;">(a) a current or former spouse, parent or guardian of the victim,</p> <p style="margin-left: 20px;">(b) a person with whom the victim shared a child in common,</p> <p style="margin-left: 20px;">(c) a person who was cohabiting with or has cohabited with the victim as a spouse, parent, or guardian, or</p> <p style="margin-left: 20px;">(d) a person who was similarly situated to a spouse, parent, or guardian of the victim;</p> <p>(4) the convicted offender was represented by counsel, or knowingly and intelligently waived the right to counsel;</p> <p>(5) if entitled to have the case tried by jury, the case was actually tried by jury or the person knowingly and intelligently waived the right to have the case tried by jury;</p> <p>(6) the conviction has not been expunged or set aside, or the convicted offender has not been pardoned for the offense or had civil rights restored, unless the pardon, expungement, or restoration of civil rights provides that the person may not ship, transport, possess or receive firearms.</p> <p>If you have ever received a domestic violence conviction: (1) you may not possess any firearm or ammunition; and (2) you must return any Government-issued firearm or ammunition to your commander or immediate supervisor; and (3) you must take steps to relinquish possession of any privately owned firearms or ammunition. Furthermore, any previously issued authorization to possess a firearm or ammunition is revoked.</p> <p>If you have any questions, or you are uncertain if you have such a conviction, you may wish to contact a legal assistance attorney, if eligible, or a private attorney, at your own expense.</p>								
<p>SECTION II - QUALIFICATION INQUIRY <i>(Complete and return to your commander or immediate supervisor within 10 days of receipt)</i></p>								
<p>1. HAVE YOU EVER BEEN CONVICTED OF A CRIME OF DOMESTIC VIOLENCE AS DESCRIBED ABOVE: (Initial and date)</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 33%; padding: 2px;">YES</td> <td style="width: 33%; padding: 2px;">NO</td> <td style="width: 33%; padding: 2px;">I DON'T KNOW <i>(Provide explanation on reverse)</i></td> </tr> </table>			YES	NO	I DON'T KNOW <i>(Provide explanation on reverse)</i>			
YES	NO	I DON'T KNOW <i>(Provide explanation on reverse)</i>						
<p>2. IF YOU ANSWERED "YES" TO THE FIRST QUESTION, PROVIDE THE FOLLOWING INFORMATION WITH RESPECT TO THE CONVICTION:</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 60%; padding: 2px;">a. COURT/JURISDICTION</td> <td style="width: 40%; padding: 2px;">b. DOCKET/CASE NUMBER</td> </tr> <tr> <td style="padding: 2px;">c. STATUTE/CHARGE</td> <td style="padding: 2px;">d. DATE SENTENCED (YYYYMMDD)</td> </tr> </table>			a. COURT/JURISDICTION	b. DOCKET/CASE NUMBER	c. STATUTE/CHARGE	d. DATE SENTENCED (YYYYMMDD)		
a. COURT/JURISDICTION	b. DOCKET/CASE NUMBER							
c. STATUTE/CHARGE	d. DATE SENTENCED (YYYYMMDD)							
<p>3. CERTIFICATION. I hereby certify that, to the best of my information and belief, all of the information provided by me is true, correct, complete, and made in good faith. I understand that false or fraudulent information provided herein may be grounds for criminal and/or administrative proceedings, to include (if civilian) adverse action, up to and including removal, and (if military) disciplinary action under the Uniform Code of Military Justice. I further understand that I have a continuing obligation to inform my Commander or Supervisor should I be convicted of a crime of domestic violence in the future.</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 33%; padding: 2px;">a. NAME <i>(Last, First, Middle Initial)</i></td> <td style="width: 33%; padding: 2px;">b. RANK/GRADE</td> <td style="width: 33%; padding: 2px;">c. SOCIAL SECURITY NUMBER</td> </tr> <tr> <td style="padding: 2px;">d. ORGANIZATION</td> <td style="padding: 2px;">e. SIGNATURE</td> <td style="padding: 2px;">f. DATE SIGNED <i>(YYYYMMDD)</i></td> </tr> </table>			a. NAME <i>(Last, First, Middle Initial)</i>	b. RANK/GRADE	c. SOCIAL SECURITY NUMBER	d. ORGANIZATION	e. SIGNATURE	f. DATE SIGNED <i>(YYYYMMDD)</i>
a. NAME <i>(Last, First, Middle Initial)</i>	b. RANK/GRADE	c. SOCIAL SECURITY NUMBER						
d. ORGANIZATION	e. SIGNATURE	f. DATE SIGNED <i>(YYYYMMDD)</i>						

DD FORM 2760, DEC 2002

PREVIOUS EDITION IS OBSOLETE.



PERSONNEL AND
READINESS

UNDER SECRETARY OF DEFENSE
4000 DEFENSE PENTAGON
WASHINGTON, D.C. 20301-4000



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MEMORANDUM FOR SECRETARIES OF THE MILITARY DEPARTMENTS
CHAIRMAN OF THE JOINT CHIEFS OF STAFF
UNDER SECRETARIES OF DEFENSE
DIRECTOR, DEFENSE RESEARCH AND ENGINEERING
ASSISTANT SECRETARIES OF DEFENSE
GENERAL COUNSEL OF THE DEPARTMENT OF DEFENSE
INSPECTOR GENERAL OF THE DEPARTMENT OF DEFENSE
DIRECTOR, OPERATIONAL TEST AND EVALUATION
ASSISTANTS TO THE SECRETARY OF DEFENSE
DIRECTOR, ADMINISTRATION AND MANAGEMENT
DIRECTOR, FORCE TRANSFORMATION
DIRECTOR, NET ASSESSMENT
DIRECTORS OF THE DEFENSE AGENCIES
DIRECTORS OF THE DEFENSE FIELD ACTIVITIES

SUBJECT: Department of Defense (DoD) Policy for Implementation of Domestic Violence
Misdemeanor Amendment to the Gun Control Act for DoD Civilian Personnel

This memorandum establishes DoD policy for implementing the domestic violence amendment to the Gun Control Act of 1968 (18 U.S.C. § 922(d)(9) and (g)(9)) for DoD civilian employees and supersedes the memorandum of November 21, 1997, on this subject that provided interim DoD policy. DoD Components shall take all reasonable and necessary steps to implement this policy with regard to civilian personnel. For the purposes of this policy, the DoD Components include the Office of the Secretary of Defense, the Military Departments, the Chairman of the Joint Chiefs of Staff, the Combatant Commands, the Inspector General of the Department of Defense, the Defense Agencies, the DoD Field Activities, and all other organizational entities of the Department of Defense.

The domestic violence amendment makes it a felony for any person to sell or otherwise dispose of firearms or ammunition to any person whom he or she knows or has reasonable cause to believe has been convicted of a "misdemeanor crime of domestic violence" (18 U.S.C. § 922(d)(9)). The amendment also prohibits anyone who has been convicted of a misdemeanor crime of domestic violence from shipping or transporting in interstate or foreign commerce, or possessing in or affecting commerce, any firearm or ammunition; or receiving any firearm or ammunition which has been shipped or transported in interstate or foreign commerce (18 U.S.C. § 922(g)(9)). Definitions for the terms used in this memorandum are attached.

The law applies to "misdemeanor crimes of domestic violence" only. For purposes of this memorandum, however, a "qualifying conviction" also includes a conviction for a "crime of



domestic violence" tried by general or special court-martial which otherwise meets the definition of a misdemeanor crime of domestic violence. Further, as a matter of DoD policy, a conviction for an offense meeting the definition of a "felony crime of domestic violence" adjudged on or after the date of this memorandum shall be considered a qualifying conviction for purposes of this memorandum. The term "qualifying conviction" does not include summary court-martial convictions, imposition of nonjudicial punishment (Article 15, UCMJ), or deferred prosecutions (or similar alternative dispositions) in civilian courts.

This policy applies to all DoD appropriated and nonappropriated fund civilian employees as defined in 5 U.S.C. § 2105, including employees working outside United States territory. It does not apply to foreign nationals employed directly or indirectly by DoD.

Each DoD Component shall identify all DoD civilian employment positions that include duties, activities, or responsibilities covered by the Gun Control Act, including selling or disposing of firearms and ammunition (18 U.S.C. § 922(d)), or receiving, possessing, shipping, or transporting any firearm or ammunition in or affecting interstate or foreign commerce (18 U.S.C. § 922(g)) (hereinafter referred to as "covered positions"). It is DoD policy that, consistent with 18 U.S.C. § 922, no DoD Component shall employ or retain in a covered position a civilian employee, including a nonappropriated fund employee, whom Component personnel know, or have reasonable cause to believe, has a qualifying conviction. A data element identifying covered and non-covered positions was placed in the legacy Defense Civilian Personnel Data System (DCPDS) in the November 1998 release.

Each DoD Component shall implement a program to inform its personnel in covered positions of the domestic violence amendment to the Gun Control Act, its consequences, and DoD implementing policy. Information provided shall include notice that personnel in covered positions have an affirmative, continuing obligation to inform their supervisors if they have, or later obtain, a qualifying conviction and that the revised DD Form 2760 (attached), which states that any statements made on the form will not be used in a prosecution for violating the Gun Control Act, is available. The use of this form and the protections it affords have been approved by the Department of Justice. DoD Components shall also post notices about the domestic violence amendment and DoD implementing policy in all facilities where firearms or ammunition are stored, issued, disposed of, and transported.

If in implementing this policy a DoD Component chooses to require that all or some of its covered personnel certify that they do or do not have a qualifying conviction, the DD Form 2760 shall be used for such certifications. Even if certification is not required, DD Form 2760 shall be made available for those personnel who come forward to report a qualifying conviction in compliance with their obligation to do so. The form shall be filed on the left side of the employee's personnel folder.

Each DoD Component shall retrieve Government-issued firearms and ammunition from any DoD employee in a covered position found to have a qualifying conviction and shall suspend the employee's authority to possess firearms or ammunition. Such action shall also be taken if there is reasonable cause to believe a civilian employee in a covered position has a qualifying conviction.

The absence of a qualifying conviction shall be made a condition of employment for all covered positions. No individual who has a qualifying conviction may be assigned or detailed into a covered position. DoD Components shall establish procedures to provide notice to individuals applying for covered positions of the prohibition prior to employment in covered positions. Notification shall include an appropriate statement on a vacancy announcement for a covered position. Individuals may be required to certify on a DD Form 2760 that they do not have a qualifying conviction before selection for, or appointment to, a covered position.

Personnel actions involving incumbents of covered positions having qualifying convictions may be taken in accordance with applicable law, regulations, collective bargaining agreements, and this memorandum. They may include such actions as redesigning a position so that it no longer is a covered position, reassigning an employee with a qualifying conviction, or taking an adverse action (e.g., a reduction in grade or removal).

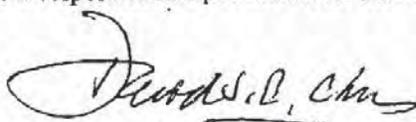
A DoD Component may afford an employee found to have a qualifying conviction a reasonable time to obtain an expungement or pardon of the conviction. During this time, however, the Components shall retrieve all Government owned firearms and ammunition and suspend the employee's authority to possess firearms and ammunition until an expungement or pardon is obtained.

When initiating a security clearance or suitability investigation on an applicant for or incumbent of a covered position, each DoD component shall identify the covered position on the request for investigation. If the completed investigation reveals a qualifying conviction, the investigation shall be referred to the requesting DoD component for an employment suitability determination.

DoD Components will take all reasonable and necessary steps to fully implement this policy. DoD Components will forward copies of implementing instructions or regulations no later than 120 days from the date of this memorandum.

Implementation of this memorandum with respect to employees represented by unions shall be accomplished consistent with any labor relations obligations.

This memorandum is effective immediately, and remains in force until superseded. The guidance in this memorandum will be incorporated into pertinent DoD issuances.



David S. C. Chu

Attachments:
As stated

DEFINITION OF KEY TERMS
DoD IMPLEMENTATION OF DOMESTIC VIOLENCE AMENDMENT

For purposes of the DoD policy to implement the domestic violence amendment to the Gun Control Act of 1968, the following definitions shall apply:

- The term "firearm" means (A) any weapon (including a starter gun) which will, or is designed to, or may readily be converted to, expel a projectile by the action of an explosive; (B) the frame or receiver of any such weapon; and (C) any firearm muffler or firearm silencer; or (D) any destructive device. However, it does not include major military weapons systems or "crew served" military weapons (tanks, missiles, aircraft, etc.)
- The term "destructive device" means (A) any explosive, incendiary, or poison gas bomb, grenade, mine, or any such rocket having a propellant charge of more than four ounces, or any such missile having an explosive or incendiary charge of more than one-quarter ounce, or any device similar to any of the devices described in the preceding clauses; (B) any type of weapon by whatever name known which will, or which may be readily converted to, expel a projectile by the action of an explosive or other propellant, and which has any barrel with a bore of more than one-half inch in diameter; and (C) any combination of parts either designed or intended for use in converting any device into any destructive device described in subparagraph (A) or (B) and from which a destructive device may be readily assembled. *Provided, however,* that the term "destructive device" shall not include any device which is neither designed nor redesigned for use as a weapon nor shall include any device, although originally designed as a weapon, which is redesigned for use as a signaling, pyrotechnic, line throwing, safety, or similar device.
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- The term "possession" includes both "active possession" and "constructive possession," whether authorized or unauthorized. Active possession of a firearm or ammunition exists when the firearm or ammunition is in the immediate possession of the person. Constructive possession exists when a person does not have actual possession but instead knowingly has the power and at a given time to exercise dominion and control over the firearm or ammunition, either directly or through others. Possession need not be exclusive but may be joint with others.
- The term "reasonable cause" means that there is reliable information that a reasonable, prudent person would rely on which makes it more likely than not that the individual has a qualifying conviction.
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- The term "dispose" means to exercise control over, to direct or to assign for use, or to alienate, bargain away, bestow, convey, exchange, give away, or transfer by authority.
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- The term "crime of domestic violence" means an offense that has as its factual basis, the use or attempted use of physical force, or 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 cohabitating with or has cohabitated with the victim as a spouse, parent, or guardian; or by a person similarly situated to a spouse, parent or guardian of the victims.
- The term "misdemeanor crime of domestic violence" is a "crime of domestic violence" that is classified as a misdemeanor under State or Federal law.
- The term "felony crime of domestic violence" is a "crime of domestic violence" that is classified as a felony under State or Federal law.
- The term "qualifying conviction" applies to any of the following: (1) a State or Federal conviction for a "misdemeanor crime of domestic violence;" (2) a State or Federal conviction for a "felony crime of domestic violence" adjudged on or after the date of this memorandum, and (3) any general or special court-martial conviction for a Uniform Code of Military Justice offense which otherwise meets the elements of a "crime of domestic violence," even though not classified as a misdemeanor or felony.

A person shall not be considered to have a qualifying conviction unless the convicted offender was represented by counsel, or knowingly and intelligently waived the right to counsel and, if entitled to have the case tried by jury or before court-members, the case was actually tried by a jury or court members or the person knowingly and intelligently waived the right to have the case tried by a jury or court members, and;

A person shall not be considered to have a qualifying conviction if the conviction has been expunged or set aside, or the convicted offender has been pardoned for the offense or had civil rights restored, unless the pardon, expungement, or restoration of civil rights provides that the person may not ship, transport, possess, or receive firearms.