DEPARTMENT OF CORRECTIONS

Policy Number:	**103.0141**
Title:	**Employees Who Are the Subject of Protective Orders (OFP, HRO, DANCO), Criminal Investigation(s), Arrest(s), and/or Conviction(s)**
Effective Date:	**12/5/23**

PURPOSE: To provide guidelines to employees who are the subjects of a criminal investigation, an order for protection (OFP), a harassment restraining order (HRO), or a domestic abuse no contact order (DANCO); or who are arrested; incarcerated; or charged or convicted of a petty misdemeanor (when the charge is related to drugs, drug paraphernalia, or guns), misdemeanor, gross misdemeanor, or felony.

APPLICABILITY: All employees

DEFINITIONS:

Criminal convictions – includes felonies, gross misdemeanors and misdemeanors for which a workhouse, house arrest, work release, electronic monitoring, community service, probation, fines, jail, incarceration, stay of adjudication, or other sentence is imposed.

Documentary evidence – includes examples such as a copy of local, state, or federal release orders, a copy of a/an OFP/HRO/DANCO, or an order of discharge from probation, parole, or other field supervision.

Employee – individual employed by the Minnesota Department of Corrections (DOC), whether active or on leave status.

Final disposition – the point at which the issue is considered resolved and complete. If the employee has been convicted, this also means that the employee has met all conditions imposed as a result of the conviction, such as serving probation, paying a fine, finishing community service time, etc.

Immediately notify – prior to the employee's next scheduled shift or within 24 hours after the incident or release from incarceration, whichever occurs first.

Incarceration – housing in any municipal, county, state, or federal jail or correctional facility.

PROCEDURES:

A. Employee Notification Requirements

1. An employee must **immediately** notify the appointing authority/designee if the employee is the subject of a/an:
   a) Order for protection (OFP);
   b) Harassment restraining order (HRO);
   c) Domestic abuse no contact order (DANCO);
   d) Criminal investigation;

e) Investigation, charge, arrest, or conviction for a petty misdemeanor (when the charge is related to drugs, drug paraphernalia, or guns), misdemeanor, gross misdemeanor, or felony; or

f) Incarceration for any reason.

2. Notification may be a direct telephone call or written communication to the appointing authority/designee and must include the formal charge, date, time, jurisdiction of the alleged occurrence, arresting agency, and any other relevant information.

3. The employee must follow-up initial notification with written notification on or before the employee's next scheduled shift (or within 24 hours if on leave) to the appointing authority/designee and regional human resource (HR) office by providing the following information:
   a) Employee name, identification number, and current date;
   b) Date and method of initial notification to the appointing authority/designee and the name and title of the person initially notified;
   c) Date employee became a subject and the type of subject of the notification (see Procedure A.1., above);
   d) The jurisdiction and the arresting agency
   e) Type of offense (for example: driving while impaired (DWI), driving under the influence (DUI), theft, etc.);
   f) Offense level, if applicable;
   g) Whether the employee represented themself as a DOC employee during the alleged offense;
   h) Impact on ability to drive a motor vehicle, including a commercial vehicle (for example: driver's license suspension/revocation, etc.);
   i) Impact on ability to possess a firearm or chemical irritant; and
   j) Any other potential impact on the ability to perform job responsibilities of their position at the DOC.

4. Employees in juvenile facilities may have additional reporting responsibilities based upon juvenile facility licensing standards in Minn. Rules 2960.0100, Subp.7.

5. Employees who are licensed peace officers may have additional responsibilities based on the Minnesota Board of Peace Officer Standards and Training (POST) administrative rules in Minn. Rules Chapter 6700.

6. The employee must immediately notify the appointing authority/designee and regional HR office of any updates, changes, court appearances, and final disposition of the arrest, charge, incarceration, criminal investigation, OFP, HRO, or DANCO, and provide supportive documentation as requested to the appointing authority/designee and HR.

7. Upon final disposition of the issue, the employee provides an updated written description of the status of the issue to the appointing authority/designee and a copy to HR. The written description must include the final disposition date with any applicable supportive documentation attached. The incident is not considered to be at final disposition until the updated written description is received in HR and placed in the employee's file. The employee is responsible for verifying with HR that the final disposition information has been received.

B. Other Notification Requirements Based on DOC Policy

1. The receiver of the report must notify the HR representative in accordance with DOC Policy 103.219, "Employee Misconduct Investigation and Discipline."

2. If the employee is in a position which may require use or possession of firearms or chemical irritants, the appointing authority and the RHRD must also refer to Policy 103.130, "Firearms and Chemical Irritant Eligibility" regarding firearms and chemical irritant eligibility.

3. If the employee is a commercial driver, they must also refer to Policy 103.041, "Commercial Driver's License," and notify the designated employer representative.

C. Employment Status

1. Employees are not permitted to be in paid status while incarcerated or serving a criminal conviction, as defined in this policy, unless serving a conviction that only resulted in probation and/or fines.

2. An employee who is sentenced to jail, house arrest, work release, electronic monitoring, or sentencing to service/community service **must request an unpaid leave of absence in writing to the appointing authority/designee and HR to serve the sentence**. Failure to request a leave of absence may result in discharge.
   a) The appointing authority considers the unpaid leave of absence request.

   b) Leave approval or denial is based on staffing needs, length of absence, and impact on the department.

   c) Under no circumstances may an employee be in paid status while incarcerated or serving a criminal conviction, as defined in this policy, unless serving a conviction that only resulted in probation and/or fines.

If an employee does not provide immediate notification to the appointing authority or designee, the employee is subject to discipline, up to and including discharge.

D. The RHRD/designee receives and stores the documentation and the appointing authority's written decision(s) in a location suitable under the Minnesota Government Data Practices Act (such as electronic document storage).

INTERNAL CONTROLS:

A. The RHRD/designee receives and stores the documentation and the appointing authority's written decision(s) in a location suitable under the Minnesota Government Data Practices Act (such as electronic document storage).

REFERENCES: Minn. Stat. §§ 14.03; 241.01, subd. 3a(g)(h)
Minn. Rules Chapters 2960; and 6700
Policy 103.130, "Firearms and Chemical Irritants Eligibility"
Policy 103.041, "Commercial Driver's License"
Policy 103.220, "Personal Code of Conduct of Employees"
Policy 103.014, "Background Checks for Applicants and Current Employees"
Policy 103.223, "Personal Associations Between Staff and Offenders"

Policy 107.009, "Office of Special Investigations – Code of Conduct and Ethics"

REPLACES: Policy 103.0141, “Employees Who are the Subject of Criminal Investigation(s), Arrest(s) and/or Conviction(s),”5/7/19.
All facility policies, memos, or other communications whether verbal, written, or transmitted by electronic means regarding this topic.

ATTACHMENTS: None

APPROVALS:
Deputy Commissioner, Chief of Staff
Deputy Commissioner, Client Services and Supports
Assistant Commissioner, Agency Services and Supports
Assistant Commissioner, Facilities
Assistant Commissioner, Facilities
Assistant Commissioner, Health, Recovery, and Programming