


FLORIDA HIGHWAY PATROL POLICY MANUAL

	SUBJECT	POLICY NUMBER
	DOMESTIC VIOLENCE FIREARMS PROHIBITION	5.05
		ISSUE DATE
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TOTAL PAGES	4	

5.05.01 PURPOSE

For procedures related to investigation of incidents of Domestic Violence, including those involving employees, see FHP Policy 22.09 and DHSMV Policy # 6.06.

5.05.02 AUTHORITY

Chapter 741, Florida Statutes

Section 790.233, Florida Statutes

The Florida Highway Patrol recognizes that domestic violence is a serious issue that is present at all levels of society; that court ordered injunctions to protect victims of domestic violence from further abuse must be enforced to be effective; and that the availability of firearms must be restricted to ensure the safety of the victims.

The Florida Highway Patrol, as a law enforcement agency, reserves the right to review any domestic violence injunction of which an employee is the subject; implement procedures to restrict the availability of firearms and ammunition by such employee; reassign a member to administrative duties; and conduct an administrative investigation of any incident(s) that led to the filing of the injunction.

The Federal Statutes referred to in Section 790.233, Florida Statutes, prohibits anyone who is the subject of a domestic violence injunction from having in his/her possession any firearm or ammunition. 18 USC, Section 925(a)(1), Federal Statutes has been interpreted to exempt law enforcement officers from the firearm prohibition while on-duty. However, the Division believes that it is in the best interest of all parties that the member be assigned to administrative duties.

The implementation of the procedures outlined in this policy is not considered disciplinary action. However, disciplinary action may be taken if the circumstances which led to the filing of the injunction or if the behavior the employee displays after receiving the injunction constitutes a violation of law, Departmental or Division policy or rule of the Florida Administrative Code. Also, failure of an employee to abide with the provisions of this policy or of a domestic violence injunction may constitute a violation of federal law. In any event, any incidents of physical violence or threats of bodily harm shall require a fitness for duty exam.

5.05.03 DEFINITIONS

- A. **AMMUNITION** – Ammunition or cartridge cases, primers, bullets, or propellant powder designed for use in any firearm (18 USC, Section 921(17)).
- B. **FIREARM** – 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; the frame or receiver of any such weapon; any firearm muffler or firearm silencer; or any destructive device. Such term does not include an antique firearm (18 USC, Section 921(3)).
- C. **POSSESSION** – For the purpose of this policy shall mean; the presence of a firearm or ammunition on or about an employee's person, within a vehicle occupied by the employee or in any dwelling occupied by the employee provided the employee knew or should have known that the firearm or ammunition was present. Any property/dwelling owned or leased by a law enforcement officer shall be considered to have a firearm and/or ammunition present.

5.05.04 OBJECTIVES

- A. To ensure that the Florida Highway Patrol is aware of all employees who have had a domestic violence injunction placed against them.
- B. To implement procedures to ensure that employees comply with state and federal statutes which relate to domestic violence injunctions.
- C. To state the Florida Highway Patrol's position as an employer on the firearm prohibition provisions of the Violent Crime Control and Law Enforcement Act of 1994 and Chapter 98-284, Florida Laws.

5.05.05 PROCEDURES

- A. **RECEIPT OF A DOMESTIC VIOLENCE RESTRAINING ORDER OR INJUNCTION**
 - 1. Any employee who becomes the subject of a domestic violence restraining order or injunction shall notify his/her Troop Commander and provide the Troop Commander with a copy of the injunction immediately upon being served with such an injunction.
 - 2. The Troop Commander will immediately notify his/her respective Chief, forward a copy of the injunction to the Chief via email (or via fax when emailing is not practical), and initiate a supervisory inquiry into the events that led to the injunction being filed.
 - 3. The Chief will provide a copy of the restraining order or injunction to the Office of General Counsel and shall consult with the Deputy Director and the Office of Professional Compliance as to whether an administrative investigation should be conducted.
- B. **THE DIVISION'S RESPONSE TO A DOMESTIC VIOLENCE RESTRAINING ORDER OR INJUNCTION BEING FILED AGAINST ONE OF ITS EMPLOYEES.**

1. Based on the circumstances that led to an employee becoming the subject of a domestic violence restraining order, the employee may be placed on administrative duties.
2. Upon a determination that a final injunction was issued under Section 741.30, Florida Statutes, the employee will be informed of such determination and placed on administrative duties. Employees who are the subject of a domestic violence injunction will not be assigned to alternate duties.
3. When placing an employee on administrative duties, the Troop Commander will complete a letter informing the employee of the availability of the Department's Member Assistance Program to assist the employee and placing the following restrictions upon the employee:
 - a. The employee is to surrender all firearms and ammunition in his/her possession to a supervisor for safekeeping.
 - b. All authorizations to carry off-duty or secondary weapons are revoked.
 - c. All authorizations to work off-duty police employment are revoked.
 - d. Should the employee separate from employment with the Division, they must, within 60 days, make arrangements to have any personally owned firearms and ammunition picked up or the items will be turned over to the Sheriff of the county in which the employee was last assigned.

These restrictions are effective immediately.

C. DISPOSITION OF FIREARMS AND AMMUNITION

1. The supervisor receiving any firearms and/or ammunition from an employee shall:
 - a. Complete an Evidence/Property Receipt (HSMV 61802), listing all firearms and ammunition received. The receipt shall indicate that the property is being retained for "SAFEKEEPING."
 - b. Ensure that all firearms and ammunition are delivered to and placed in an FHP facility armory within 24 hours.
2. Firearms and ammunition shall remain in the troop armory until the injunction ceases to be in effect or the employee separates from state employment. However, if an employee separates from state employment while the injunction is still in effect, personally owned firearms and ammunition may not be released to the employee, but can be released to any adult individual designated in writing by the employee and approved by a court of competent authority as authorized to receive the firearms and ammunition.

3. Firearms and ammunition not claimed within 60 days of the employee's separation from employment shall be considered unclaimed property and delivered to the sheriff of the county in which the employee was last assigned in accordance with Section 790.08, Florida Statutes.

5.05.06 REGULATIONS

- A. Employees who are the subject of a domestic violence injunction issued under Section 741.30, Florida Statutes, shall refrain from possessing firearms and/or ammunition. They shall also refrain from entering any vehicle or dwelling where the member or employee knows or should know that a firearm or ammunition is present.