

ALBUQUERQUE CRIMINAL LAWYER BLOG

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Firearms and Domestic Violence: A Toxic Mix

One of the primary concerns of many facing domestic violence charges is the impact a conviction will have on their right to possess or carry firearms. This concern is particularly serious for those whose employment requires that they be allowed to possess or carry a firearm such as law enforcement, the military, and public or private security. The prohibition against possessing or carrying a firearm for people in these professions can be financially ruinous.

Conviction of a domestic violence offense in criminal court carries with it a lifetime ban on the possession of a firearm. Federal law under 18 U.S.C. § 922(g)(9) provides for a lifetime ban for anyone "who has been convicted in any court of a misdemeanor crime of domestic violence." Violation of the law results in very serious felony charges under federal law.

As a result, a conviction for misdemeanor domestic violence can make an individual ineligible for employment in any occupation requiring the use of a firearm. This not only prevents individuals from pursuing employment in these areas, but can result in the lawful termination of a person's employment for a domestic violence conviction. This may be the case even for those who have been employed for years with that employer.

Of course, victims must be protected from domestic violence. However, there are a number of injustices that arise that are largely ignored under the pretext of protecting victims. First, as has been discussed in previous posts, false domestic violence actions are often filed for illegitimate purposes. Second, the definition of domestic violence is very broad. Prosecutors will often use the broad definition overcharge cases that really have no business being charged as domestic violence. Again, as a result of the incredibly broad definition, prosecutors will often also charge cases as domestic violence when the charge only vaguely resembles domestic violence. For instance, someone who kicks a wall, throws a phone, breaks some dishes or the like is often charged with domestic violence rather than simple destruction of property. Finally, the definition of assault which is part of the domestic violence offense of assault of a household member is really so flexible that anyone of the right mind could come up with charge no matter what the reality of the situation.

For an individual whose very livelihood depends on the outcome of these proceedings, the process is confusing, frustrating, and most of all frightening. Men and women who have spent their entire lives doing the right thing, without

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a single other blemish on their record, face the possibility of the loss of their gun rights, a right held sacred under our Constitution, and with that loss, a loss of any financially secure future in the profession which they have chosen. It is not infrequent that they face these consequences despite the absence true domestic violence for which the law was meant to protect.

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