

**MCRC FROST CALL 028-02 DATED 09 May 2002**

From: Commanding General, Marine Corps Recruiting Command

Subj: DEFINITION OF DOMESTIC VIOLENCE OFFENSES, WAIVER  
PROCEDURES AND TRACKING OF DISQUALIFIED APPLICANTS

Ref: (a) Title 18 U.S.C. Sections 921, 922  
(b) ASD (FMP) Memo of 22 Oct 1997 (NOTAL)  
(c) MCO P1100.72B (Short Title: MPPM)  
(d) MCRC Frost Call 026-98 dated 16 March 1998

Encl: (1) Tracking Form

1. Purpose. To update all levels within the command the DoD policy regarding the accession of applicants convicted of a domestic violence offense(s), as well as clarifying which types of offenses constitute domestic violence.

2. Background. As of 22 October 97, applicants convicted of a domestic violence offense, as defined in references (a) and (b), and this frost call, are not eligible for enlistment or accession into a commissioning program.

3. Information. The Lautenburg Amendment to the Gun Control Act of 1968, makes any applicant who has been convicted of a felony or misdemeanor crime of Domestic Violence ineligible for service in the Armed Forces.

a. Waivers. Waivers for domestic violence convictions are not authorized, unless the applicant has the conviction **expunged or pardoned**. If an applicant had a conviction expunged or pardoned, they are eligible to apply for enlistment with a waiver for the original expunged or pardoned charge(s) from the Region CG. The individual must provide proof in the form of certified court documents that the conviction has been pardoned or expunged. Questionable cases will be forwarded to MCRC for determination. This policy applies to applicants for both officer and enlisted programs, and members of the Delayed Entry Program (DEP). Any poolee who has a qualifying conviction shall be discharged; however, at the discretion of the RS CO, reasonable time to have the conviction expunged (not to exceed 60 days) may be allowed prior to DEP discharge. Per reference (c), recruiters may not become involved in the judicial process. Upon receipt of an expungement or pardon, the poolee will require a moral waiver to remain in the Delayed Enlistment Program (DEP).

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b. Definition of Domestic Violence. The Penal Law in many states do not contain offenses with the words "domestic violence." The words "domestic violence" are not always used in court documents or police records to classify criminal offenses. Recruiting personnel must be cognizant of this fact, in order to prevent a wrongful assumption that an assault charge is waivable. Convictions possessing an element (described below), qualify as domestic violence cases. In order for a criminal offense to be regarded as a crime of domestic violence, it must have at least an element of, the use or attempted use of physical force, or the threatened use of a deadly weapon, and where the perpetrator (applicant) is the:

(1) current or former spouse, parent, or guardian of the victim, or

(2) the perpetrator and victim are parents of a child, or

(3) the perpetrator cohabited (in a marriage-like setting) with the victim, or

(4) the perpetrator was serving in a role similar to a spouse, parent, or guardian of the victim.

Additionally, it must be a conviction of misdemeanor or felony charge. Adjudication in the juvenile systems, pre-trial diversions, or cases where deferred judgments were rendered, do not count as convictions, under the purpose of this law.

c. Examples. Following are a few examples of situations to help determine if the involvement is considered domestic violence:

(1) Applicant is father of girlfriend's child. Girlfriend has custody of child. During a visit, applicant beats child and is convicted of child abuse. **Applicant is ineligible.**

(2) Applicant and boyfriend who have lived together for one year split up. Two weeks later, applicant runs into boyfriend in a store and an argument ensues. The applicant threatens to stab former boyfriend with a pair of scissors. Applicant is convicted of communicating a threat. **Applicant is ineligible.**

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(3) Applicant's teenage nephew does not get along with parents and has been living with applicant for 6 months. Applicant confronts nephew about his underage drinking. They argue and end up in a fistfight. The applicant is later convicted of **assault and battery**. **Applicant is ineligible.**

(4) Applicant and his father get into a fistfight and the applicant is later convicted of **domestic battery** for assaulting his father. **Applicant is eligible with appropriate waiver.**

4. Action.

a. Regions. Each Region shall use the enclosure to report disqualified applicants to MCRC (G-3) by the 10<sup>th</sup> of each month. The report will include officer and enlisted disqualified through their respective region. Fax copies are authorized. All members of the DEP must be screened for domestic violence convictions.

b. MCRC. MCRC track the number of applicants denied enlistment as a result of a domestic violence offense for DoD.

c. Reference (d) is cancelled. Contents of this frost call will be incorporated into the revision of reference (c).

5. Points of contact are Capt B. Mora, or MSgt J.T. Allan, MCRC G-3, at commercial (703) 784-9403 or DSN 278-9403.

  
D. L. MCMANUS  
By direction

\_\_\_\_\_  
(DATE)

FROM: \_\_\_\_\_

TO: MCRC G-3 (PLANS & ANALYSIS)

SUBJ: DOMESTIC VIOLENCE OFFENDERS DENIED MILITARY ENTRANCE

1. THE FOLLOWING INFORMATION IS PROVIDED:

<b>APPLICANT CATEGORY</b>	<b>ACTIVE COMPONENT</b>	<b>RESERVE COMPONENT</b>	<b>TOTAL</b>
<b>ENLISTED</b>			
<b>OFFICER</b>			