

Sixth District Department of Correctional Services POLICY	Issue Date 02/18/92	Effective Date 09/09/22	Policy Number 113-22
Subject POSSESSION OF FIREARMS, DANGEROUS AND OFFENSIVE WEAPONS		Review Month September	Author 0601 (GSC)
Rescinds 113-19	References Secs. 702.7, 724.1, 724.25 & 724.26, Iowa Code; IA Uniform Jury Inst. 200 & 2400; 18 U.S.C. § 922(g)(1)(8)(9) & (n); St. v. Miles, 490 N.W.2d 798 (Iowa, 1992)		

POLICY:

The District follows Federal, State and municipal laws regarding clients possessing, receiving or transporting firearms, dangerous or offensive weapons.

DEFINITION:

1. Clients in one or more of the following statuses are prohibited from possession or receipt of a firearm or ammunition <Pursuant to Federal Law 18 USC 922(g) & (n)>:
 - A. Clients on pretrial release supervision after the Trial Information or Indictment for a felony offense is filed.
 - B. Clients granted a deferred judgment, deferred sentence or a suspended sentence for a felony offense.
 - C. Clients who have been convicted of a misdemeanor crime of Domestic Violence or who are subject to a domestic violence restraining order.
 - D. Clients previously convicted of a felony or a misdemeanor crime of Domestic Violence who have not had the privilege to carry firearms restored.
 - E. Clients in residential facilities.
 - F. Clients on parole.
 - G. An illegal drug user.
 - H. A fugitive from justice.

This prohibition remains in effect until the client receives permission from the Governor of the state in which the conviction occurred and the U.S. Department of Treasury, Bureau of Alcohol, Tobacco and Firearms to have under the client's dominion and control, receive or transport firearms or offensive weapons.

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DEFINITION: (continued)

2. Felony - Any offense punishable in the jurisdiction where it occurred by imprisonment for a term exceeding one (1) year. This does not include an offense classified as a misdemeanor under the laws of the State and punishable by a term of imprisonment of two (2) years or less unless the offense involved the use of a firearm or explosive. An "aggravated misdemeanor: which involved the use of a firearm or explosive is a felony for purposes of firearms law and this policy.
3. Firearm – Any weapon (including a starter gun) which expels a projectile by means of an explosive or is designed or may be readily converted to do so. This includes the frame or receiver of any such weapon, a firearm muffler or silencer or any destructive device. It does not include antique firearms as defined in 18 USC § 921(a)(16).
4. Offensive Weapon - Includes any of the following:
 - A. A machine gun. A machine gun is a firearm which shoots or is designed to shoot more than one shot, without manual reloading, by a single function of the trigger.
 - B. A short-barreled rifle or short-barreled shotgun. A short-barreled rifle or short-barreled shotgun is a rifle with a barrel or barrels less than sixteen (16) inches in length or a shotgun with a barrel or barrels less than eighteen (18) inches in length, as measured from the face of the closed bolt or standing breech to the muzzle, or any rifle or shotgun with an overall length less than twenty-six (26) inches.
 - C. Any weapon other than a shotgun or muzzle loading rifle, cannon, pistol, revolver or musket, which fires or can be made to fire a projectile by the explosion of a propellant charge, which has a barrel or tube with the bore of more than six-tenths of an inch in diameter, or the ammunition or projectile therefor, but not including antique weapons kept for display or lawful shooting.
 - D. A bomb, grenade, or mine, whether explosive, incendiary, or poison gas; any rocket having a propellant charge of more than four (4) ounces; any missile having an explosive charge of more than one-quarter ($\frac{1}{4}$) ounce; or any device similar to any of these.
 - E. A ballistic knife. A ballistic knife is a knife with a detachable blade which is propelled by a spring-operated mechanism, elastic material, or compressed gas.
 - F. Any part or combination of parts either designed or intended to be used to convert any device into an offensive weapon as described in subsections 1 to 5 of this section, or to assemble into such an offensive weapon, except magazines or other parts, ammunition, or ammunition components used in common with lawful sporting firearms or parts including but not limited to barrels suitable for refitting to sporting firearms.

DEFINITION: (continued)

- G. Any bullet or projectile containing any explosive mixture or chemical compound capable of exploding or detonating prior to or upon impact, or any shotshell or cartridge containing exothermic pyrophoric misch metal as a projectile which is designed to throw or project a flame or fireball to simulate a flamethrower. Notwithstanding section 724.2, no person is authorized to possess in this State a shotshell or cartridge intended to project a flame or fireball of the type described in this section.
- H. Any mechanical device specifically constructed and designed so that when attached to a firearm silences, muffles, or suppresses the sound when fired. However, this subsection does not apply to a mechanical device possessed and used by a person solely for the purpose of shooting a deer pursuant to an approved city special deer population control plan if the person has a valid federal permit to possess and use the mechanical device.
- I. An offensive weapon or part or combination of parts therefor does not include the following:
 - 1.) An antique firearm. An antique firearm is any firearm (including any firearm with a matchlock, flintlock, percussion cap, or similar type of ignition system) manufactured in or before 1898 or any firearm which is a replica of such a firearm if such replica is not designed or redesigned for using conventional rimfire or centerfire ammunition or which uses only rimfire or centerfire fixed ammunition which is no longer manufactured in the United States and which is not readily available in the ordinary channels of commercial trade.
 - 2.) A collector's item. A collector's item is any firearm other than a machine gun that by reason of its date of manufacture, value, design, and other characteristics is not likely to be used as a weapon. The commissioner of public safety designates by rule firearms which the commissioner determines to be collector's items and revises or updates the list of firearms at least annually.
 - 3.) Any device which is not designed or redesigned for use as a weapon; any device which is designed solely for use as a signaling, pyrotechnic, line-throwing, safety, or similar device; or any firearm which is unserviceable by reason of being unable to discharge a shot by means of an explosive and is incapable of being readily restored to a firing condition.
- 5. Dangerous Weapon – is any instrument or device designed primarily for use in inflicting death or injury upon a human being or animal, and which is capable of inflicting death upon a human being when used in the manner for which it was designed, except a bow and arrow when possessed and used for hunting or any other lawful purpose. Additionally, any instrument or device of any sort whatsoever which is actually used in such a manner as to indicate that the defendant intends to inflict death or serious injury upon the other, and which, when so used, is capable of inflicting death upon a human being, is a dangerous weapon. Dangerous weapons include but are not limited to any offensive weapon, pistol, revolver, or other firearm, dagger, razor, stiletto, switchblade knife, knife having a blade exceeding five inches in length, or any portable device or weapon directing an electric current, impulse, wave, or beam that produces a high-voltage pulse designed to immobilize a person.

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PROCEDURE:

1. Clients are prohibited from possessing, using, receiving or transporting firearms, offensive or dangerous weapons.
2. Agents research a client's criminal history. If the client was previously convicted of a felony or misdemeanor crime involving Domestic Abuse, the firearms policy is applied to the client until the client provides proof the client is expressly authorized by the Chief Executive Officer of the State in which the conviction occurred and the President of the United States to receive, transport or possess firearms.
3. Clients on supervision for an aggravated misdemeanor offense are not under this firearms restriction unless the aggravated misdemeanor for which they are on supervision involved a firearm or explosive or unless the client is under another legal prohibition regarding firearms.
4. The Agent consults with the Supervisor prior to applying this policy to any client convicted of a misdemeanor offense. The Agent notes the consultation in the client's ICON Generic Notes (103).
5. If the client verbalizes concerns about adhering to any of the following: Rule 9 of the Pretrial Release Agreement, Rule 13 of the Probation Agreement, or Rule 60 of the Parole Agreement, the Agent provides the client with a copy of the Firearms Statement (113A) and documents the discussion in ICON Generic Notes.
6. The client is advised the burden is upon the client to contact the Bureau of Alcohol, Tobacco and Firearms to obtain permission in writing in order for the client to have under the client's dominion and control, receive or transport a firearm, dangerous or offensive weapon after discharge from supervision.

BY ORDER OF:

Bruce Vander Sanden, District Director