

16-001 Gun Violence Restraining Order Procedures

Los Angeles County Sheriff's Department FIELD OPERATIONS DIRECTIVE



GUN VIOLENCE RESTRAINING ORDER PROCEDURES

PURPOSE

The purpose of this Field Operations Directive is to establish uniform procedures for the handling and documenting of gun violence restraining orders.

BACKGROUND

On September 30, 2014, four months after a disturbed man killed six UC Santa Barbara students and wounded 13 others, Governor Jerry Brown signed legislation (Assembly Bill Number 1014) allowing the temporary seizure of firearms from people determined by the Superior Court (court) to be a threat to themselves or others. This legislation allows law enforcement officers, immediate family members, employers, teachers, or school personnel to ask a court for a restraining order against a person believed to be a threat, prohibiting their possession of firearms for 21 days on a temporary basis through the use of a Temporary Gun Violence Restraining Order (GVRO).

There are two different paths to a GVRO which became effective January 1, 2016. First, Penal Code section 18100 authorizes a court to issue a Firearms Emergency Protective Order (EPO-002) if a law enforcement officer asserts and a judicial officer finds there is reasonable cause to believe the subject (also known as the restrained person) of the petition poses an immediate and present danger of causing personal injury to themselves or another by having in their custody or control, owning, purchasing, possessing, or receiving a firearm, magazines and ammunition, and the order is necessary to prevent personal injury to themselves, or another. Second, immediate family members, employers, coworkers, teachers, or school personnel can seek a Temporary Firearms Restraining Order (GV-110) through the court on an "ex-parte" basis.

WHO CAN REQUEST A GVRO?

In addition to law enforcement, immediate family members may apply for a GVRO. "Immediate family members" are defined as any spouse, whether by marriage or not, domestic partner, parent, child, any person related by consanguinity or affinity within the second degree, or any other person who regularly resides in the household, or who, within the prior six months, regularly resided in the household pursuant to Penal Code section 18150(2).

The law requires a law enforcement officer to serve the order on the restrained person, if the person can reasonably be located, file a copy of the order with the court no later than three (3) court days after its issuance, and have the order entered into the computer database system for protective and restraining orders (CARPOS) maintained by the Department of Justice. The restrained person is then required to immediately relinquish for safekeeping all firearms and ammunition to the control of the local law enforcement agency or by selling all firearms, magazines, and ammunition to a licensed gun dealer. If the restrained person has been lawfully served and failed to relinquish the firearm(s) as required, the law allows a search warrant to be obtained. Law enforcement officers shall take custody of any firearm or ammunition in the restrained person's custody or control pursuant to a lawful search warrant.

FIELD DEPUTY PROCEDURES

Any incident in the field, where a temporary GVRO may be needed, an incident report (SH-R-49) shall be written and an URN obtained. The handling deputy will contact the court for signature on the GVRO by a magistrate, and if the restrained person can be contacted, then they should be served in person. GVRO's may be obtained 24 hours a day, seven days a week, by contacting the **County operator at (213) 974-1234**. The operator will connect you to the on-duty court representative.

COURT DEPUTY PROCEDURES

If the order was petitioned by someone other than a law enforcement agency and subsequently granted by the court, service may be requested and provided by Court Services Division's Civil Management Bureau (CMB). CMB deputies serving a GVRO shall request the restrained person immediately relinquish all firearms and ammunition at the time of service for safekeeping. If the restrained person does not comply with the order, the deputy shall advise the restrained person they have 24 hours to comply with the order in lieu of an immediate relinquishment. If the subject relinquishes the firearms and ammunition to the deputy upon service of the order, the deputy shall take custody of the items and issue a receipt for these items for the purpose of safekeeping. The restrained person is required to file with the court a copy of the receipt from the law enforcement agency as proof of relinquishment within 48 hours of being served.

Deputy's Responsibilities

Deputies receiving a call for service having a possible nexus to GVRO's shall handle them without delay. If during the investigation of an incident it is determined that a temporary GVRO should be issued, the deputy needs reasonable cause to believe both of the following exist:

- The subject of the petition poses an immediate and present danger of causing personal injury to themselves or another by having in their custody or control, owning, purchasing, possessing, or receiving a firearm.
- A temporary GVRO is necessary to prevent personal injury to the subject of the petition or another because less restrictive alternatives have been tried and found to be ineffective, or have been determined to be inadequate or inappropriate for the circumstances of the subject of the petition.

A temporary GVRO issued shall prohibit the subject of the petition from having in their custody or control, owning, purchasing, possessing, receiving, or attempting to purchase or receive, a firearm or ammunition. The temporary GVRO shall expire 21 days from the date the order is issued.

Upon issuance of a GVRO, it shall be the handling deputy's responsibility to conduct service of the restraining

order and shall request the restrained person to relinquish the firearm(s) and ammunition for safekeeping as indicated in the GVRO.

If the restrained person relinquishes a firearm(s) or ammunition to any deputy serving a GVRO, they shall:

- Process the firearm in accordance with MPP section 5-09/180.00, Firearms Processing;
- Obtain an URN using a statistical code of 855 (Relinquish Firearms – Protective Order);
- Issue a “Firearm’s Receipt”;
- Book the firearm(s) and ammunition at the nearest Sheriff’s station and advise the restrained person which station the firearm was taken to;
- Advise the restrained person they have 48 hours from the service of the protective order to submit the proof of relinquishment to the Court; and
- Write an Incident Report indicating that the firearm was relinquished for safekeeping pursuant to the service of a GVRO. If personnel are writing an Incident Report based on a crime and not solely on the relinquishment of a firearm pursuant to service of a GVRO, the service of the restraining order and relinquishment of the firearm shall be documented in the same Incident Report. The statistical code for the crime shall be used for the URN.

If the restrained person refused to relinquish the listed firearms, and a search warrant is not obtained, deputy personnel shall advise the restrained person of the following:

- They have 24 hours from service of the protective order to relinquish their firearm(s) to their local law enforcement agency or sell the firearm to a licensed gun dealer; and
- They have 48 hours from the service of the protective order to submit the proof of relinquishment to the court and also give, deliver, or submit a copy to the law enforcement agency who served the protective order.

After service of the GVRO, if the restrained person refuses to relinquish the firearm(s) and no crime has occurred, an Incident Report or supplemental report shall be written by deputy personnel. In addition, personnel serving the GVRO shall make a detailed log entry of the request and refusal. Subsequent court databases shall also be updated and noted in the report.

Booking the Firearm(s) and Ammunition

The handling deputy shall ensure the firearm(s) or ammunition are rendered safe before transporting them to the station for booking. Book the items by **marking them as “safekeeping”** in the Department’s Property, Evidence and Laboratory Information Management System (PRELIMS). **Do not mark them as “surrendered.”** Marking the items as “safekeeping” ensures they will not to be destroyed, unless changed by the handling detective.

Watch Sergeant’s Responsibilities

It shall be the watch sergeant's responsibility to ensure that gun violence reports conform to the provisions of this directive. Any firearms or ammunition relinquished for safekeeping shall be retained until the expiration of any GVRO which has been issued against the restrained person. Upon expiration of the order GVRO absent a permanent (one-year GVRO), any firearms or ammunition shall be released to the restrained person pursuant to Penal Code sections commencing with 33850. Unclaimed firearms and/or ammunition are

subject to the requirements of Penal Code section 34000.

The watch sergeant shall ensure that any firearms or ammunition relinquished by the restrained person are properly recorded in PRELIMS as “safekeeping.”

Information regarding the content of this Field Operations Directive may be directed to Field Operations Support Services at [REDACTED TEXT]

Attachment

[Firearms Emergency Protective Order \(EPO-002\)](#)
