

16-001 Gun Violence Restraining Order Procedures

Los Angeles County Sheriff's Department

FIELD OPERATIONS DIRECTIVE

Field Operations Support Services



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

Pursuant to Penal Code section 18100, et seq., law enforcement officers, immediate family members, employers, teachers, or school personnel may petition a court for a civil restraining order (Gun Violence Restraining Order or "GVRO") against a person reasonably believed to pose a threat to themselves or others, prohibiting their possession, purchase or access to firearms for 21 days to up to 5 years.

Penal Code sections 18125-18148 authorizes a court to issue a temporary emergency GVRO ("Emergency GVRO" or "Firearms Emergency Protective Order (EPO)") 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. An Emergency GVRO/EPO is issued ex parte and is effective for a period of 21 days.

Immediate family members, employers, coworkers, teachers, or school personnel can also petition a court to issue a Temporary Firearms Restraining Order (GV-110) on an ex parte basis. However, this Field Operations Directive will address the EPO-002 process, as it is specific to law enforcement.

FIELD DEPUTY PROCEDURES

An Emergency GVRO/EPO may be obtained by law enforcement where there is reasonable cause to believe that the subject poses an immediate and present danger of causing personal injury to themselves or another by having possession of or access to a firearm. Some examples of crisis situations that may warrant an Emergency GVRO/EPO include, but are not limited to, a mental health crisis/suicide threat or risk, threats or acts of firearm violence, or domestic violence involving a firearm or a person who owns or has access to a firearm. Note that no criminal activity or mental health history is required to petition for an Emergency

GVRO/EPO, only a demonstrated risk of firearm-related harm to self or others.

For any incident in the field, where an Emergency GVRO/EPO may be warranted, 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.

Note: While firearms can be temporarily removed from an individual who is subject to a 72 hour "5150" hold, such removal does not subject that individual to a firearms prohibition that would prevent them from purchasing or otherwise accessing a firearm. California law imposes a 5-year firearms prohibition only if an individual is officially admitted to a designated inpatient facility as a result of the 5150 hold. Because not all 5150 holds result in an official admission and automatic firearms prohibition, a deputy should consider petitioning for an Emergency GVRO/EPO if the subject meets the Emergency GVRO/EPO requirements, even if the subject is subject to a 72-hour 5150 hold.

Deputies receiving a call for service having a possible nexus to a potential GVRO shall handle them without delay. An Emergency GVRO/EPO may be obtained if it is determined by the deputy during the investigation of an incident that there is reasonable cause to believe both of the following exist as required by Penal Code section 18125:

1. 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.
2. 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.

Upon issuance of a Emergency GVRO/EPO, it shall be the handling deputy's responsibility to serve the order on the restrained person and request the restrained person to relinquish any and all firearm(s) and ammunition for safekeeping as indicated in the GVRO.

Pursuant to Penal Code section 18250, a deputy shall take temporary custody of any firearm or other deadly weapon in plain sight or discovered pursuant to a consensual or otherwise lawful search as necessary for the protection of the deputy or other persons present if the deputy is:

1. At the scene of a domestic violence incident involving a threat to human life or a physical assault
2. Serving a protective order as defined in Family Code 6218;
3. Serving a gun violence restraining order pursuant to 18100 PC.

If the restrained person relinquishes a firearm(s) or ammunition to any deputy serving a GVRO, the deputy 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 Emergency GVRO/EPO 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 refuses to relinquish their firearm(s) and/or ammunition, and they are not in plain sight or a search warrant is not obtained, deputy personnel shall advise the restrained person of the following:

- They have 24 hours from service of the Emergency GVRO/EPO to relinquish their firearm(s) and/or ammunition 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 Emergency GVRO/EPO 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 Emergency GVRO/EPO, 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/or Ammunition

The handling deputy shall ensure the firearm(s) and/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 PROCEDURES

It shall be the watch sergeant's responsibility to ensure that gun violence reports conform to the provisions of this directive. Any firearms and/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 a GVRO, any firearms and/or ammunition that were relinquished pursuant to that GVRO 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.”

GVRO HEARING/REPRESENTATION BY COUNTY COUNSEL

As soon as practicable after the Emergency GVRO/EPO has been entered by the court, the handling deputy, detective or watch sergeant shall contact County Counsel (Sheriff's Legal Advisory Unit) so that County Counsel can represent the Department at the court hearing to determine whether a more permanent GVRO (1 to 5 years) should be entered by the court upon expiration of the Emergency GVRO/EPO. The handling deputy may be required to testify at the court hearing. The hearing is scheduled within 21 days of the entry of the Emergency GVRO/EPO; however, the hearing date may be continued and the Emergency GVRO/EPO extended pursuant to such continuance.

County Counsel can be reached at (213) 229-3086.

COURT SERVICES DIVISION, CIVIL MANAGEMENT BUREAU PROCEDURES

If a GVRO was obtained 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). No fee is charged for service of a GVRO. 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 voluntarily comply with the order, the deputy shall advise the restrained person they have 24 hours to do so. If the subject relinquishes the firearms and/or ammunition to the deputy upon service of the order, the deputy shall take custody of the items for the purpose of safekeeping and issue a receipt for these items. 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.

Information regarding the content of this Field Operations Directive may be directed to Field Operations Support Services at foss@lasd.org or (323) 890-5411.

Attachment:

Firearms Emergency Protective Order (EPO-002)
