



DEPARTMENT NOTICE

19-238
12/12/19

Gun Violence Restraining Orders (GVRO)

Purpose

The purpose of this bulletin is to define Gun Violence Restraining Orders (GVRO) and to establish guidelines on how to obtain and serve them.

Background

On January 1, 2016, Assembly Bill 1014 amended California Penal Code Sections to authorize a court to issue Gun Violence Restraining Orders (GVRO) as a tool for Law Enforcement and specific household members to prevent gun violence through an expedient and civil process, which aims to ensure safety and allow the subject of the GVRO to stabilize. The Bill authorizes the following GVRO's to be issued in the following circumstances:

Types of GVRO's

1. **Temporary (Emergency) GVRO** (Law Enforcement Only - Typically obtained when officers are on the scene of an incident or when the subject is in custody) - The court is authorized to issue a temporary emergency GVRO if a law enforcement officer asserts and a judicial officer finds that there is *reasonable cause* to believe both of the following:
 - The subject of the GVRO 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 (emergency) GVRO is necessary to prevent personal injury to the subject of the petition or another because less restrictive alternatives either have been tried or found to be ineffective, or have been determined to be inadequate or inappropriate for the circumstances of the subject of the petition.
2. **Ex-Parte GVRO** (Law Enforcement/Family or Household Member - typically obtained in the course of an investigation and officers are not on scene)- The court is authorized to issue an ex parte GVRO prohibiting the subject of the GVRO from having in their custody or control, owning, purchasing, possessing, or receiving, or attempting to purchase or receive, a firearm or ammunition when it is shown that there is a *substantial likelihood* that the subject of the GVRO poses a significant danger of harm to themselves or another in the near future by having in their custody or control, owning, purchasing, possessing, or receiving a firearm and that the order is necessary to prevent injury to themselves or another.

The granting of a Temporary (Emergency) and Ex Parte GVRO prohibits the subject from having in their custody or control, owning, purchasing, possessing, or receiving a firearm for 21 days and triggers an automatic hearing for a permanent GVRO (1 year ban).

3. **Permanent GVRO After Hearing** - The court will consider evidence at the hearing where the petitioner (*Law Enforcement or Family Member who sought and received the Temporary or Ex Parte GVRO referenced above*) shall have the burden of proving, by clear and convincing evidence, that both of the following are true: (1) the subject of the petition, or a person subject to an ex parte GVRO, poses a significant danger of causing personal injury to themselves or another by having in their custody or control, owning, purchasing, possessing, or receiving a firearm or ammunition. (2) A GVRO is necessary to prevent personal injury to the subject of the petition, or the person subject to an ex parte GVRO, or another because less restrictive alternatives either have been tried and found to be ineffective, or are inadequate or inappropriate for the circumstances of the subject of the petition, or the person subject to an ex parte GVRO.

The granting of a "Permanent GVRO After Hearing" prohibits the subject from having in their custody or control, owning, purchasing, possessing, or receiving, or attempting to purchase or receive, a firearm or ammunition for *one year*, which can be renewed.

Factors in Determining Application for GVRO

- Firearms nexus - Firearm use is not required, however, steps should be made to determine the subject owns, possesses, has access to, or has made statements regarding the purchase or use of firearms. Proof of firearm nexus can be determined by officer's observations, witness/family/subject statements, Automated Firearms System (AFS) queries, and any other evidence that establishes access to firearms.
- If the subject has current firearm ownership prohibitions (felony and certain misdemeanor convictions, etc.) then a GVRO may not be appropriate. In these cases, conduct an appropriate criminal investigation.
- The GVRO is necessary to prevent an injury.

Examples of when GVROs Should Be Considered

- Family members are concerned that their elderly father who has been showing signs of dementia has firearms accessible in the house. They are worried for their mother and want to know what options they have to remove the firearms from the home.
- A subject who legally owns firearms, but recklessly discharges them in their backyard, endangering their neighbors.
- A subject who legally possesses firearms and who has recently displayed signs of mental health issues, but does not meet 5150 criteria or is discharged prior to 5152 WI hold.
- Juvenile subject makes school shooting threat on social media.

Obtaining a Temporary (Emergency) GVRO

- Assess the incident(s) for articulable elements relevant to foreseeable gun violence and

emergency nature.

- Interview all appropriate parties.
- Query the subject for firearms ownership in CLETS.
- Contact a Duty Judge in accordance with DB 18-034 (Obtaining Emergency Protective Orders).
- Complete the GVRO Emergency Protective Order Form (EP0-002).
- Document all actions in an incident report including the elements required for a temporary GVRO.
- Ensure the incident report is titled in the primary or secondary section of the report.
- Contact SFPD's General Counsel no later than the next business day after obtaining the Temporary (Emergency) GVRO.

Obtaining an Ex-Parte GVRO

- Assess incident(s) for articulable elements relevant to foreseeable gun violence.
- Gather all reports and other supporting documentation and forward to CGIC via FAX to 415-553-7942. Additionally, an email shall be sent to gvro.cgic@sfgov.org notifying CGIC personnel of the Ex-Parte GVRO request including any associated case number(s).
- CGIC will email SFPD's General Counsel and contact the Chief Trial Deputy at the City Attorney's Office for GVRO application and court issuance.

Service of the Order and Surrender of Firearms/Ammunition

- Officers serving a GVRO shall request that all firearms and ammunition (including magazines) be immediately surrendered.
- If a subject refuses to comply with the order, a search warrant can be obtained to enter the premises and collect the firearms. If officers are unable to detain the subject and/or freeze the premises in a safe manner, steps should be taken to monitor the scene pending the issuance of the search warrant. In these cases, notify the district station OIC and absent exigent circumstances, no entry shall be made prior to the approval of the appropriate Search Warrant Matrix (DB 18-016).
 - During District Station Investigations Team (SIT) working hours, SIT shall be responsible for authoring GVRO related search warrants when necessary. When SIT is unavailable, it shall be the responsibility of the Night Investigations Unit (1900-0500), who should be contacted via the Department Operations Center. Night Investigations will respond to the incident where they shall be briefed on all aspects of the service of the order.
- A property receipt (SFPD 315) must be issued to the subject surrendering the firearms and ammunition.
- Book all firearms and ammunition as "Property for Safekeeping."
- Completed forms shall be forwarded to ID Bureau as soon as practical for entry into the California Restraining and Protective Order System. The original proof of service form shall be hand carried to the Civic Center Courthouse, Clerk's Office located at 400 McAllister St. Room #103.
- Prepare an incident report and title the report utilizing the following incident codes as appropriate:

- o **15164 - Gun Violence Restraining Order**
- o **15165 - Gun Violence Restraining Order Violation**
- The incident report, any supporting documents, and copy of the GVRO shall be forwarded to CGIC via interdepartmental mail and the City Attorney's Office via email to SFPD's General Counsel and via mail addressed to the following:
 - o Chief Trial Deputy, San Francisco City Attorney's Office 1390 Market Street, 6th Floor, San Francisco, CA 94102.
- CGIC shall provide all support necessary for the City Attorney's Office to evaluate whether to seek the permanent GVRO.

Violation of GVRO


- 18205 PC - Every person who owns or possesses a firearm or ammunition with knowledge that they are prohibited by a GVRO is guilty of a misdemeanor AND will be subject to a five year ban from owning or possessing firearms or ammunition.

Return of Firearms and Ammunition

- Return of seized firearms and ammunition pursuant to a GVRO are subject to protocols established in DB 18-238 - "Return of Seized Firearms".

Direct questions regarding Gun Violence Restraining Orders to the Crime Gun Investigations Center at 415-553-9731 or gvro.cgic@sfgov.org.

****It should be noted that this Department Notice does NOT affect Domestic Violence and 5150 firearms seizure related protocols already in place.****


WILLIAM SCOTT
Chief of Police

Per DB 19-156, sworn members are required to electronically acknowledge receipt and review of this Department Notice in HRMS. Any questions or clarification regarding this policy should be made to sfpd.writtendirectives@sfgov.org who will provide additional guidance about the directive.