

Memorandum

TO: ALL DEPARTMENT PERSONNEL **FROM: Edgardo Garcia**
Chief of Police

SUBJECT: GUN VIOLENCE RESTRAINING **DATE: May 29, 2020**
ORDERS - SEE BELOW

Memo# 2020-021

SUBJECT

DUTY MANUAL ADDITION - L 4113 GUN VIOLENCE RESTRAINING ORDERS

**DUTY MANUAL REVISION - L 5704 BOOKING FIREARMS FOR SAFE KEEPING –
DOMESTIC VIOLENCE INCIDENTS**

**DUTY MANUAL REVISION - L 5705 BOOKING FIREARMS FOR SAFE KEEPING –
MENTAL HEALTH INCIDENTS**

BACKGROUND

Existing Department policy dictates that while investigating a domestic violence or mental health incident, officers shall inquire if any firearms are accessible and/or on the premise. Officers should take custody of any found firearms and ammunition for safekeeping, when authorized. Penal Code Section 18108 has been added by the legislature to require that law enforcement agencies develop, adopt, and implement written policies and standards relating to Gun Violence Restraining Orders (GVRO).

Section L 4113 is being added to the Duty Manual to comply with the GVRO policy requirements set out in Penal Code Section 18108. Additionally, Training Bulletin 2020-011 provides step-by-step instructions for acquiring and using GVROs. Lastly, Duty Manual Sections L 5704 & L 5705 are being revised to align with the new language established in section L 4113.

Officers are reminded that obtaining a GVRO does not in itself bestow authority to conduct a separate search. Firearms and ammunition may only be seized when discovered pursuant to a consensual search or other lawful search.

ANALYSIS

The Duty Manual has been revised to reflect changes made to the following sections. Additions are shown in *italics and underlined*. Deletions are shown in “strike through” form.

L 4113

GUN VIOLENCE RESTRAINING ORDERS:

Added: 5-29-20

Domestic Violence GVRO:

In domestic violence situations it is the policy of the Department to use Gun Violence Restraining Orders (GVRO) when appropriate to prevent future violence involving a firearm. Domestic disturbance responses in which an officer should consider the use of a GVRO include:

- Responses that involve the past or present use or threat of use of a firearm.
- Responses to any residence that is associated with a firearm registration or record.
- Responses in which a firearm is present.
- Responses in which one of the involved parties owns or possesses a firearm.

Mental Health GVRO:

Department policy is intended to prevent access to firearms by persons who, due to a mental health issue, pose a danger to themselves or to others by owning or possessing a firearm. During contacts with a person exhibiting mental health issues, including suicidal thoughts, statements, or actions, officers should consider the use of a GVRO when:

- The person owns or possesses a firearm.
- There is reasonable cause to believe that the person poses an immediate and present danger of causing personal injury to themselves or another person by having custody or control of a firearm.

Requesting & Serving a GVRO:

Obtaining a GVRO follows a similar process as is used to obtain an Emergency Protective Order (see Duty Manual Section L 4108). If the GVRO is obtained, officers shall request that all firearms and ammunition be immediately surrendered when the order is served. Documenting and submitting the order to the Warrants Unit will follow the process previously established for EPROs.

Seizing & Booking Firearms Pursuant to a GVRO:

Officers who have obtained a GVRO shall seize and book firearms/ammunition as outlined in Duty Manual Sections L 5704 (Domestic Violence) or L 5705 (Mental Health).

- NOTE: Possession of a GVRO does not, by itself, bestow authority to search. Firearms and ammunition may only be seized when in plain sight or discovered pursuant to a consensual search or other lawful search (i.e. search warrant, emergency or exigent circumstance, incident to arrest, probation, parole, or Post Release Community Supervision).
- In situations where a search warrant for firearms and ammunition is required in order to meet the requirements of the Fourth Amendment, Officers shall abide by the search warrant standards and procedures commencing with Duty Manual Section L 3800.

GVRO Hearings:

Officers will attend GVRO hearings when requested by the City Attorney's Office or when summoned through the Court Notice or subpoena process.

BOI Responsibilities:

When necessitated by the facts of the case, the following will be the responsibility of the assigned BOI Detective working in concert with the City Attorney's Office.

- Requesting and serving a GVRO after a notice and hearing.
- Requesting and serving an ex parte GVRO.
- Verifying the removal of firearms and ammunition from the subject of a GVRO.
- Requesting renewals of expiring GVROs.

L 5704

BOOKING FIREARMS FOR SAFEKEEPING - DOMESTIC VIOLENCE INCIDENTS

Revised 5-29-20

When responding to a domestic violence incident, the officer shall as necessary for the protection of the officer or other persons present:

- ~~Take custody of any firearm in plain sight or discovered pursuant to a consensual search or other lawful search~~
- Have Communications check DOJ Automated Firearms System to determine ownership of firearms.
- Ask if there are any firearms on the premises.
- Obtain a Gun Violence Restraining Order if applicable.
- If the officer has obtained a Gun Violence Restraining Order, take custody of any firearm/ammunition in plain sight or discovered pursuant to a consensual search or other lawful search (i.e. search warrant, emergency or exigent circumstance, incident to arrest, probation, parole, or Post Release Community Supervision).
- If the officer has not obtained a Gun Violence Restraining Order, the officer should take custody of any firearms or ammunition discovered in plain sight or pursuant to a consensual search when the seizure is necessary for an urgent public safety need, such as when a person involved in the domestic violence incident may imminently have access to the firearms/ammunition and may use them to harm himself or herself or others. The officer shall also take custody of any firearms or ammunition incident to arrest or when authorized pursuant to a judicial order (i.e., search warrant or order of probation, parole, or Post Release Community Supervision).
- ~~Contact Communications and request a check be made through the Automated Firearms System to determine if the subject owns a firearm~~

- Have Communications run a warrant check.
 - The warrant check will also verify if a Domestic Violence Restraining Order (DVRO) is in effect and if there is an order prohibiting firearms.
 - If the officer determines that a protective order has been issued but not served, the officer shall immediately notify the respondent of the terms of the order.
 - Have Communications notify the Sheriff's Office Warrants Unit to have proof of service entered into Domestic Violence Restraining Order System.
- Complete the Property Report and Evidence Continuity process through RMS listing the firearms/ammunition taken from the owner/possessor.
- Give the owner/possessor of the firearm/ammunition a report receipt (Form 200-45A).
- Advise the owner/possessor to obtain a DOJ Firearms Release Form from the DOJ webpage or contact the Firearms Division for a return application.
- ~~Firearms/ammunition taken into custody must be booked in the Property Room~~
Firearms seized under this section will be booked at Central Supply for safekeeping unless they are evidence of a crime.

L 5705 BOOKING FIREARMS FOR SAFEKEEPING - MENTAL HEALTH INCIDENTS
Revised 5-29-20

When detaining or apprehending a person at a W&I 5150 incident, the officer shall:

- Have Communications check DOJ Automated Firearms System to determine ownership of firearms.
- Ask if there are any firearms on the premises.
- ~~Confiscate any firearm owned, in the possession or under the control of the subject~~
- Obtain a Gun Violence Restraining Order if applicable.
- If the officer has obtained a Gun Violence Restraining Order, take custody of any firearm/ammunition in plain sight or discovered pursuant to a consensual search or other lawful search (i.e. search warrant, emergency or exigent circumstance, incident to arrest, probation, parole, or Post Release Community Supervision).
- If the officer has not obtained a Gun Violence Restraining Order, take custody of any firearms or ammunition in the immediate possession of the person detained under W&I 5150. The officer shall also take custody of any other firearms or ammunition in plain sight or discovered pursuant to a consensual search when doing so is necessary for an emergency or urgent public safety need, such as when the detained person may imminently have access to the firearms/ammunition and may use them to harm himself or herself or others. The officer shall also take custody of any firearms or ammunition incident to

arrest or when authorized pursuant to a judicial order (i.e., search warrant or order of probation, parole, or Post Release Community Supervision).

- Check DOJ Supervised Release File and Mental Health Firearms Prohibition system. If weapons are present, subject may be charged.
- Complete the Property Report and Evidence Continuity process through RMS, listing the firearms/ammunition taken from the owner/possessor.
- Give the owner/possessor of the firearms a report receipt (Form 200-45A).
- Advise the owner/possessor to obtain a DOJ Firearms Release Form from the DOJ webpage or contact the Firearms Division.
- ~~Firearms/ammunition taken into custody must be booked in the Property Room~~
Firearms seized under this section will be booked at Central Supply for safekeeping unless they are evidence of a crime.

ORDER

The above stated changes to the Duty Manual are effective immediately.



EDGARDO GARCIA
Chief of Police

EG:PC:MB

