

Memorandum

TO: ALL DEPARTMENT PERSONNEL

FROM: Paul Joseph
Chief of Police

**SUBJECT: DUTY MANUAL REVISION:
GUN VIOLENCE RESTRAINING
ORDERS**

DATE: July 15, 2025

APPROVED

Memo #2025-010

BACKGROUND

A gun violence restraining order (GVRO) is a civil order, issued by a court, that temporarily removes firearms and ammunition from a person who poses a risk of harm to themselves or others, or who has demonstrated the potential to cause violence. In performance of their duties, officers may have a need to petition for one of two distinct types of temporary GVROs:

- Emergency gun violence restraining order (GVEPO); and
- Ex-parte gun violence protective order (ex-parte GVRO).

The main difference between these two types of GVROs is that a GVEPO can only be petitioned by a law enforcement officer, whereas an ex-parte GVRO can be petitioned by a law enforcement officer or one of the other individuals specified in [California Penal Code section 18150](#). Although the law allows officers to petition for either type of temporary GVRO, officers should generally petition for a GVEPO (Form EPO-002) when the need for a temporary GVRO arises. Once an officer obtains a GVEPO or ex-parte GVRO, the City Attorney's Office will decide whether to petition for a long-term GVRO, which is valid for up to 5 years.

ANALYSIS

The Duty Manual has been revised to reflect the changes described below. Additions are shown in italics and underlined. Deletions are shown in ~~strike-through~~ form.

L 4113 GUN VIOLENCE RESTRAINING ORDERS:

Revised 07-15-25

A gun violence restraining order (GVRO) is a civil court order which prohibits the subject of the petition from having in their custody or control, owning, purchasing, possessing, or receiving a firearm, firearm part (receivers and frames), ammunition, or magazine for a period of up to five years.

In the City of San José, a GVRO is petitioned through the City Attorney's Office. The City Attorney's Office is responsible for initiating and serving a GVRO, and for having it entered into the California Restraining and Protective Order System (CARPOS). The first step in the process to obtain a GVRO is to petition for one of the following two types of temporary GVROs:

- Emergency gun violence restraining order (GVEPO), which may be petitioned only by a law enforcement officer; or
- Ex-parte GVRO, which may be petitioned by a law enforcement officer or an individual specified in the California Penal Code.

Emergency gun violence restraining order (GVEPO):

Per PC 18125, a GVEPO may be issued only 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 petition poses an immediate and present danger of causing personal injury to himself, herself, or another by having in his or her custody or control, owning, purchasing, possessing, or receiving a firearm, firearm part (receivers and frames), ammunition, or magazine.
- A temporary emergency gun violence restraining order is necessary to prevent personal injury to the subject of the petition or another because less restrictive alternatives either 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 GVEPO issued based on this criteria shall prohibit the subject of the petition from having in his or her custody or control, owning, purchasing, possessing, receiving, or attempting to purchase or receive, a firearm, firearm part (receiver, frame, or any item that may be used as or easily turned into a receiver or frame), ammunition, or magazine and shall expire 21 days from the date the order is issued.

The processes for obtaining, serving, and documenting a GVEPO, as well as for submitting it to the Department's Warrants Unit for entry into CARPOS, are the same as those for an emergency protective order (EPRO).

Ex-parte GVRO:

An ex-parte GVRO is another form of a temporary gun violence restraining order which can be petitioned by any of the following individuals:

- An immediate family member of the subject of the petition.
- An employer of the subject of the petition.
- A coworker of the subject of the petition, if they have had substantial and regular interactions with the subject for at least one year and have obtained the approval of the employer.
- An employee or teacher of a secondary or postsecondary school that the subject has attended in the last six months, if the employee or teacher has obtained the approval of a school administrator or a school administration staff member with a supervisory role.

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- A law enforcement officer.
- A roommate of the subject of the petition.
- An individual who has a dating relationship with the subject of the petition.
- An individual who has a child in common with the subject of the petition, if they have had substantial and regular interactions with the subject for at least one year.

A court may issue an ex-parte GVRO if the petitioner asserts, and a judicial officer finds, that there is reasonable cause to believe both of the following:

- The subject of the petition poses a significant danger, in the near future, of causing personal injury to the subject of the petition or another by having in their custody or control, owning, purchasing, possessing, or receiving a firearm, firearm part (receivers and frames), ammunition, or magazine.
- An ex-parte GVRO is necessary to prevent personal injury to the subject of the petition or another because less restrictive alternatives either have been tried and found to be ineffective, or are inadequate or inappropriate for the circumstances.

When responding to incidents involving firearms, Officers should take into consideration the elements necessary for the issuance of a GVEPO and assess if a GVEPO is appropriate. A crime does not need to have occurred when petitioning a GVEPO; it can be obtained based on circumstances and beliefs.

Domestic Violence Incidents GVRO:

~~In~~ During domestic violence situations ~~incidents~~, it is the policy of the Department to use ~~Gun violence restraining orders (GVRO)~~ GVEPOs when appropriate to prevent future violence involving a firearm. Additionally, PC 18108 (b) mandates that an officer consider the use of a gun violence restraining order during a domestic disturbance response. Domestic disturbance responses in which an officer should consider the use of a ~~GVRO~~ GVEPO include: but are not limited to:

- 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 or expressed an intent to acquire a firearm.

Mental Health GVRO Incidents:

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. Additionally, PC 18108 (b) mandates an officer consider the use of a gun violence restraining order during contact with a person exhibiting mental health issues. During contacts with a person exhibiting mental health issues, including suicidal thoughts, statements, or actions, officers should consider the use of a ~~GVRO~~ GVEPO 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.

Hate Crime and Hate Incidents:

When a hate crime or a hate incident is reported, if there is indication a GVEPO is appropriate, officers should consider seeking an order. Department members should refer to Duty Manual section L 2212 - HATE CRIMES.

Requesting & Serving a ~~GVRO~~ GVEPOs:

Obtaining and serving a ~~GVRO~~ GVEPO follows a ~~similar process as is similar to that~~ used to obtain an and serve an Emergency Protective Order (EPRO). See Duty Manual section L 4108 - EMERGENCY PROTECTIVE ORDERS for details on this process. If the ~~GVRO~~ GVEPO 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 in Duty Manual section L 4111 - RESPONSIBILITY OF WARRANTS UNIT.

When a GVEPO is being served, the restrained person shall be given a physical copy of the order. Verbal proof of service for a GVEPO is not authorized. The Department's Warrants Unit is responsible for entering and maintaining GVEPOs entered into CARPOS.

Seizing & Booking Firearms Pursuant to a ~~GVRO~~ GVEPO:

Officers who have obtained a ~~GVRO~~ GVEPO shall seize and book firearms/ammunition as outlined in Duty Manual sections L 5704 - BOOKING FIREARMS FOR SAFEKEEPING - DOMESTIC VIOLENCE INCIDENTS or Duty Manual section L 5705 - BOOKING FIREARMS FOR SAFEKEEPING - MENTAL HEALTH INCIDENTS.

- NOTE: Possession of a ~~GVRO~~ GVEPO 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 - OBTAINING AND SERVING SEARCH WARRANTS.

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~~ The following will be the responsibility of the assigned BOI Detective ~~working in concert with the City Attorney's Office:~~

- If the facts of the case necessitate, the Detective should consider requesting a GVEPO.
- Requesting and serving a GVRO after a notice and hearing
- ~~Requesting and serving~~ Coordinating service of an unserved ex-parte GVRO or GVEPO during the time period of the temporary order.
- Verifying the removal of firearms and ammunition from the subject of a GVRO GVEPO or ex-parte GVRO.
- ~~Requesting renewals of expiring GVRO's~~
- When a case involving an unserved GVEPO or ex-parte GVRO is not assigned to a formal BOI investigative unit (i.e., Court Liaison), the unserved order will be routed to BFO Patrol for follow up service.

L 4111

RESPONSIBILITY OF WARRANTS UNIT:

Revised 07-15-25

The Department's Warrants Unit is responsible for maintaining, receiving, filing, and purging, ~~Emergency Protective Orders~~ and for the proof of their service, ~~as well as those Restraining Orders issued prior to 8/1/96.~~ of Emergency Protective Orders and Gun Violence Emergency Protective Orders (GVEPOs) and for their entry into the California Restraining and Protective Order System (CARPOS). It will also ensure that EPROs are filed with Family Court in a timely manner and will forward GVEPOs to the City Attorney's Office. The Warrants Unit will follow the established guidelines located in the Warrants Quick Reference Guideline Book when maintaining GVEPOs.

When a request for verification of an order is made, Warrants members will perform the following tasks:

- Determine that an active order is on file.
- Verify that the person against whom the order has been issued (respondent) has been served or has knowledge.
- Advise the requesting officer (or Communications) of the status of the order and the conditions granted, as well as the names of the persons listed as the petitioner and respondent.

L 5704 BOOKING FIREARMS FOR SAFEKEEPING - DOMESTIC VIOLENCE INCIDENTS:

Revised 07-15-25

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

- Have Communications check the DOJ Automated Firearms System to determine ownership of firearms.
- Ask if there are any firearms on the premises.
- Obtain a ~~Gun violence restraining order~~ Temporary Emergency gun Violence Protective Order (GVEPO) if applicable.
- If the officer has obtained a ~~Gun Violence Restraining Order~~ GVEPO, 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 custodial arrest, probation, parole, or Post Release Community Supervision).
- If the officer has not obtained a ~~Gun Violence Restraining Order~~ GVEPO, 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 themselves 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).
- 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

L 5705 BOOKING FIREARMS FOR SAFEKEEPING – MENTAL HEALTH INCIDENTS:

Revised 07-15-25

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.
- Obtain a Temporary Emergency gun Violence Protective Restraining Order (GVEPO) if applicable.
- If the officer has obtained a ~~Gun Violence Order~~ GVEPO, 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 Order~~ GVEPO, 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 themselves 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 seized under this section will be booked at Central Supply for safekeeping unless they are evidence of a crime. If a firearm is collected for safekeeping it shall require a completed automated Firearm Seized and Recovered Template be submitted with a General Offense Report or supplemental report.

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ORDER

Effective immediately, all Department personnel shall adhere to the above Duty Manual sections.

A handwritten signature in black ink, reading "Paul Joseph". The signature is cursive and fluid, with the first name "Paul" and last name "Joseph" clearly distinguishable.

Paul Joseph
Chief of Police

PJ:PH:DM:BM