



SAN JOSE POLICE DEPARTMENT

TRAINING BULLETIN

TO: ALL DEPARTMENT PERSONNEL

FROM: Anthony Mata
Chief of Police

**SUBJECT: GUN VIOLENCE EMERGENCY
PROTECTIVE ORDER
(FORM EPO-002)**

DATE: November 29, 2021

Bulletin# 2021-024

On September 1, 2021, the Judicial Council of California revised the *Gun Violence Emergency Protective Order* (Form EPO-002). Paragraph three of the Warnings and Information Section was revised to address entities who may seek a more permanent restraining order: family member, employer, coworker, teacher, or school administrator. Paragraph four was revised to show that a judge has the ability to extend the term of the order to five (5) years (previously one (1) year).

Department members shall use the updated *Gun Violence Emergency Protective Order* (Form EPO-002, revision date of September 1, 2021). Hardcopy versions are available at Central Supply.

Investigative Steps to Obtain a GVRO as of this Bulletin Date

Officers respond to a call and determine if the subject qualifies for a GVRO for firearms. This emergency order is good for **21 days**.

- Form EPO-002 is completed by the on-scene officer and an on-call judge will approve or disapprove the Order. This is the same process used for obtaining an EPO in domestic violence cases (California Family Code Sections 6250 – 6275).
- If the judge approves the request, the officer will note:
 - The expiration date (21 days from date of incident) on the EPO.
 - The court date for the subject in **Department 66 at 9:01 am** at the **Family Justice Courthouse** - 201 N. 1st Street, San Jose.
 - The court date will be on a Monday or Thursday that is closest to the expiration of the **21 days** without reaching the expiration date of the emergency protective order.

The only exception to this is court holidays. It is important that officers do not assign a court date which coincides with a court holiday. Officers in the field can request dispatch conduct a record check to determine if the court date assigned is a court holiday.

ALL DEPARTMENT PERSONNEL

SUBJECT: GUN VIOLENCE EMERGENCY PROTECTIVE ORDER (FORM EPO-002)

November 29, 2021

Page 2

It is important that the court date and location is written on the form and the 21-day expiration date is properly noted or the EPO-002 will have to be re-issued and served to the subject again.

Example Scenario – Officers respond to a call for service where a subject is detained on a 5150 W&I and transported to EPS. The subject has guns registered to them, and the officer determines that the EPO-002 is necessary. The officer obtains judicial approval for the EPO, and the 21-day period for the EPO expires on a Thursday. The officer will write the court date for a Monday prior to the Thursday expiration of the EPO, because that is within 21 days of the EPO.

- The officer will ensure the EPO-002 is served on the arrested or detained subject and complete the proof of service information at the bottom of the EPO-002.
- When serving the EPO-002, the officer shall verbally ask the restrained person if he or she has any firearm, ammunition, or magazine in his or her possession or under his or her custody or control and request that all firearms, ammunition, and magazines be immediately surrendered.
 - Subjects who refuse to comply are in violation of PC 18205, which is a misdemeanor. However, Department members are reminded that a GVRO does not give automatic authority to conduct a search for firearms and ammunition. Any search for firearms and ammunition must be conducted in compliance with established search & seizure laws. Examples include consent, plain view, incident to arrest, search warrant, exigent circumstances, probation, parole, and Post Release Community Supervision.
- The officer will file the EPO-002 with OSSD-Warrants.

Additional information regarding GVROs may be found in California Penal Code sections 18100 – 18205. Specific provisions concerning Temporary Emergency GVROs may be found in California Penal Code Sections 18125 – 18145.



Anthony Mata
Chief of Police

AM:SD:MB

Attachment: *Gun Violence Emergency Protective Order* (Form EPO-002)

ALL DEPARTMENT PERSONNEL
SUBJECT: GUN VIOLENCE EMERGENCY PROTECTIVE ORDER (FORM EPO-002)

November 29, 2021

Page 3

Gun Violence Emergency Protective Order (Form EPO-002)

EPO-002
GUN VIOLENCE EMERGENCY PROTECTIVE ORDER

LAW ENFORCEMENT CASE NUMBER:

1. RESTRAINED PERSON (insert name):

Address:
Sex: M F Ht.: Wt.: Hair color:
Eye color: Race: Age: Date of birth:

Clerk stamps date here when form is filed.

2. TO THE RESTRAINED PERSON

(Also see important Warnings and Information on page 2):

You are required to surrender all firearms, ammunition, and magazines that you own or possess in accordance with Section 18120 of the Penal Code and you may not have in your custody or control, own, purchase, possess, or receive, or attempt to purchase or receive, any firearm, ammunition, or magazine while this order is in effect. However a more permanent gun violence restraining order may be obtained from the court. You may seek the advice of an attorney as to any matter connected with the order. The attorney should be consulted promptly so that the attorney may assist you in any matter connected with the order.

If you have any firearms, ammunition, and magazines, you MUST IMMEDIATELY SURRENDER THEM if asked by a police officer. If a police officer does not ask you to surrender any of the above, within 24 hours of getting this order, you must take them to a police station or a licensed gun dealer to sell or store them and must file a receipt with the court proving that this has been done. You have 48 hours to file a receipt with the court shown to the right. If you do not file a receipt within 48 hours you have violated this order and can go to jail.

Fill in court name and street address:

Superior Court of California, County of

Court fills in case number when form is filed.

3. This order will last until: Time

INSERT DATE OF 21st CALENDAR DAY (DO NOT COUNT DAY THE ORDER IS GRANTED)

4. Court Hearing A court hearing will be set within 21 days.

A court hearing will take place at the court above on: Date: Time/Dept:

You must go to the court hearing if you do not want this restraining order against you. At the hearing, the judge can make this order last for up to five years.

5. Reasonable grounds for the issuance of this order exist, and a Gun Violence Emergency Protective Order (1) is necessary because the Restrained Person poses an immediate danger of causing personal injury to himself or herself or to another by having custody or control, owning, purchasing, possessing, or receiving any firearms, ammunition, or magazines; and (2) less restrictive alternatives were ineffective or have been determined to be inadequate or inappropriate under the circumstances.

6. Judicial officer (name): granted this order on (date): at (time):

APPLICATION

7. Officer has a reasonable cause to believe that the grounds set forth in item 5, above, exist (state supporting facts and dates; specify weapons—number, type and location):

8. Firearms were observed reported searched for seized.

Ammunition (including magazines) was observed reported searched for seized.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

By: (PRINT NAME OF LAW ENFORCEMENT OFFICER)

(SIGNATURE OF LAW ENFORCEMENT OFFICER)

Agency: Telephone No: Badge No:

Address:

PROOF OF SERVICE

9. I personally delivered copies of this Order to the restrained person name in item 1.

Date of service: Time of service: Address:

10. At the time of service, I was at least 18 years of age.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: (TYPE OR PRINT NAME OF SERVER/LAW ENFORCEMENT OFFICER)

(SIGNATURE OF SERVER)

GUN VIOLENCE EMERGENCY PROTECTIVE ORDER
WARNINGS AND INFORMATION

EPO-002

TO THE RESTRAINED PERSON: You are prohibited from owning, possessing, purchasing, receiving, or attempting to purchase or receive a firearm, ammunition, or a magazine. (Pen. Code, § 18125 et seq.) A violation of this order is a misdemeanor punishable by a \$1,000 fine or imprisonment for six months or both. (Pen. Code, §§ 19, 18205.)

Within 24 hours of receipt of this order, you must turn in all firearms, ammunition, and magazines to a law enforcement agency or sell them to or store them with a licensed firearms dealer until the expiration of this order. (Pen. Code, § 18125 et seq.) A receipt proving surrender, sale, or storage must be filed with the court within 48 hours of receipt of this order, or on the next court business day if the 48-hour period ends on a day when the court is closed. You must also file the receipt with the law enforcement agency that served you with this Order. You may use Form GV-800, *Proof of Firearms, Ammunition, and Magazines Turned In, Sold, or Stored*.

This Gun Violence Emergency Protective Order is effective when made. It will last until the date and time in item 3 on the front. The court will hold a hearing within 21 days to determine if a longer-term order should be issued. If the date and time are not stated in item 4 on the front, you will get a notice with the date and time of the hearing in the mail at the residential address listed on page 1 of this form. If you would like to respond to this order in writing you must use Form GV-020, *Response to Gun Violence Emergency Protective Order*. A family member, employer, coworker, teacher, or school administrator may also seek a more permanent restraining order from the court.

If you violate this order, you will also be prohibited from having in your custody or control, owning, purchasing, possessing, or receiving, or attempting to purchase or receive, a firearm, ammunition, or magazine for an additional five-year period, to begin on the expiration of the more permanent gun violence restraining order. (Pen. Code, § 18205.)

This protective order must be enforced by all law enforcement officers in the state of California who are aware of it or shown a copy of it. The terms and conditions of this order remain enforceable regardless of the acts or any agreement of the parties; it may be changed only by order of the court.

A LA PERSONA RESTRINGIDA: Tiene prohibido ser dueño de un arma de fuego, municiones o cargadores, o poseer, comprar, recibir, o tratar de comprar o recibir un arma de fuego, municiones o cargadores. (Código Penal, §§ 18125 y siguientes). Una violación de esta orden está sujeta a una multa de \$1000 o encarcelamiento de seis meses o ambos. (Código Penal, §§ 19 y 18205.)

Dentro de las 24 horas de recibir esta orden, tiene que entregar sus armas de fuego, municiones y cargadores a una agencia del orden público o venderlos a un comerciante de armas autorizado, o almacenarlos con el mismo hasta el vencimiento de esta orden. (Código Penal, §§ 18125 y siguientes). Se tiene que presentar a la corte una prueba de haberlos entregado, vendido, o almacenado dentro de las 48 horas de recibir esta orden. Se puede usar el formulario GV-800, *Prueba de entrega, venta o almacenamiento de armas de fuego, municiones y cargadores*, por este propósito.

Esta orden de protección de emergencia de armas de fuego entra en vigencia en el momento en que se emite. Durará hasta la fecha y hora indicadas en el punto 3 de la primera página. Se realizará una audiencia dentro de 21 días para determinar si es necesario emitir una orden que dure por más tiempo. Si la fecha y la hora no se indican en el punto 4 de la primera página, recibirá un aviso con la fecha y la hora de la audiencia por correo a la dirección residencial indicada en la primera página. Si desea responder a esta orden por escrito, tiene que usar el formulario GV-020, *Respuesta a la orden de protección de emergencia de armas de fuego*. Un miembro de su familia, su empleador, un colega del trabajo, un maestro o profesor, o administrador educativo también puede solicitar al tribunal una orden de restricción más permanente.

Si contraviene esta orden de restricción, se le prohibirá tener en su posesión o control, comprar, poseer o recibir, o tratar de comprar o recibir un arma de fuego, municiones o cargadores por otro periodo de cinco años más, comenzando a partir del vencimiento de la orden de restricción de armas de fuego más permanente. (Código Penal, § 18205.)

Todo agente del orden público del estado de California que tenga conocimiento de la orden o a quien se le muestre una copia de la misma deberá hacer cumplir esta orden de protección. Los términos y condiciones de esta orden se podrán hacer cumplir independientemente de las acciones de las partes; solo la corte podrá cambiar esta orden.

To law enforcement: The Gun Violence Emergency Protective Order must be served on the restrained person by the officer if the restrained person can reasonably be located. Ask the restrained person if he or she has any firearms, ammunition, or magazines in his or her possession or under his or her custody or control. A copy must be filed with the court as soon as practicable, but not later than three court days, after issuance, so a hearing can be set, if one was not already scheduled. If the court did not give you a hearing date when issuing the order (to put in item 4 on the front), the court will set a hearing within 21 days and will provide you with notice of the hearing. Also, the officer must have the order entered into the computer database system for protective and restraining orders maintained by the Department of Justice.

The provisions in this temporary Gun Violence Emergency Protective Order do not affect those of any other protective or restraining order in effect, including a criminal protective order. The provisions in another existing protective order remain in effect.

EPO-002 [Rev. September 1, 2021]

GUN VIOLENCE EMERGENCY PROTECTIVE ORDER (CLETS-EGV)

Page 2 of 2

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