

STOCKTON POLICE DEPARTMENT
GENERAL ORDER
GUN VIOLENCE RESTRAINING ORDER
SUBJECT

DATE: AUGUST 10, 2020

NO: D-1a

FROM: CHIEF ERIC JONES

TO: ALL PERSONNEL

INDEX: Gun Violence Restraining Order (GVRO)

I. PURPOSE

To establish the process for obtaining and serving Gun Violence Restraining Orders (GVRO).

II. POLICY

It is the policy of the Stockton Police Department to petition for and serve gun violence restraining orders in compliance with state law and appropriately account for firearms and ammunition obtained pursuant to GVRO.

III. PROCEDURE

A. Ascertain the need for a Gun Violence Restraining Order

1. Any police officer who believes a person is an immediate danger to themselves or another person by controlling, owning, purchasing, possessing, receiving, or having custody of a firearm, may request permission from their supervisor to petition the court for an emergency gun violence restraining order. An officer petitioning for a GVRO shall comply with the notice, hearing, and renewal requirements outlined in Penal Code Section 18100.
 - a. In determining whether grounds for a gun violence restraining order exist, the court shall consider all evidence of the following:
 - (1) A recent threat of violence or act of violence by the subject of the petition directed toward another.
 - (2) A recent threat of violence or act of violence by the subject of the petition directed toward himself or herself.
 - (3) A violation of an emergency protective order issued pursuant to Section 646.91 or Part 3 (commencing with Section 6240) of Division 10 of the Family Code that is in effect at the time the court is considering the petition.
 - (4) A recent violation of an unexpired protective order issued pursuant to Part 4 (commencing with Section 6300) of Division 10 of the Family Code, Section 136.2, or Section 213.5, Section 527.6 of the Code of Civil Procedure, or 15657.03 of the Welfare and Institutions Code.
 - (5) A conviction for any offense listed in Section 29805.
 - (6) A pattern of violent acts or violent threats within the past 12 months, including, but not limited to, threats of violence or acts of violence by the subject of the petition directed toward himself, herself, or another.
 - b. In determining whether grounds for a gun violence restraining order exist, the court may consider any other evidence of an increased risk for violence, including, but not limited to, evidence of any of the following:
 - (1) The unlawful and reckless use, display, or brandishing of a firearm by the subject of the petition.

- (2) The history of use, attempted use, or threatened use of physical force by the subject of the petition against another person.
 - (3) A prior arrest of the subject of the petition for a felony offense.
 - (4) A history of a violation by the subject of the petition of an emergency protective order issued pursuant to Section 646.91 or Part 3 (commencing with Section 6240) of Division 10 of the Family Code.
 - (5) A history of a violation by the subject of the petition of a protective order issued pursuant to Part 4 (commencing with Section 6300) of Division 10 of the Family Code, Section 136.2, Section 527.6 of the Code of Civil Procedure, or Section 213.5 or 15657.03 of the Welfare and Institutions Code.
 - (6) Documentary evidence, including, but not limited to, police reports and records of convictions of either recent criminal offenses by the subject of the petition that involve controlled substances or alcohol or ongoing abuse of controlled substances or alcohol by the subject of the petition.
 - (7) Evidence of recent acquisition of firearms, ammunition, or other deadly weapons.
- c. For this subdivision, "recent" means within the six months prior to the date the petition was filed.
- 2. Officers shall document all pertinent information on an SIR or crime report and forward it to the City Attorney. Officers and City Attorneys petitioning the court should use the forms established by the Judicial Council (Penal Code 18105). The petition should describe the number, types, and locations of any firearms and ammunition the officer believes are possessed or controlled by the person (PC 18107). The petition should also describe less-restrictive alternatives are ineffective or inadequate for the circumstances (PC 18125: PC 18150: PC 18175).
 - 3. Officers must be available to complete and sign a declaration prepared by the City Attorney, which must be attached to the petition.
 - 4. If it is not practical under the circumstances to submit a written petition, an officer may verbally request an order using the procedures for obtaining a verbal search warrant and preparing the order using the appropriate Judicial Council form (PC 18140: PC 18145). Officers will contact the on-call judge to request the order.
 - 5. The service of any GVRO shall be documented in the appropriate report, whether it be an SIR or a crime report.
 - 6. Both written petitions and verbal petitions must be approved by the Watch Commander or a lieutenant.

B. Service of Gun Violence Restraining Order

- 1. An officer serving a gun violence restraining order shall request that any firearms or ammunition be immediately surrendered and shall issue a receipt for the surrendered items (PC 18120).
- 2. Take into temporary custody any firearm or other deadly weapon discovered in plain view or pursuant to the consent of other lawful search (PC 18250).
- 3. Inform the restrained person of any scheduled hearing regarding the order (PC 18115).
- 4. Transmit the original proof-of-service form to the issuing court as soon as practicable but within one business day.

5. As soon as practical, but by the end of the officer's shift, submit proof of service to the Records Section for entry into the California Restraining and Protective Order System, within one business day from the service of the order (PC 18115).
 6. The officer should also inform the restrained person they are required within 24 hours to surrender any other firearms or ammunition they own, or have in their custody, to a law enforcement agency or to sell them to a firearms dealer. This notification shall be documented in the coinciding report.
 7. All firearms and ammunition collected shall be handled and booked in accordance with General Order G-2.
- C. Verbal service of GVRO
1. Document service of the court order on the form approved by the Judicial Council.
 2. Serve the order to the restrained person, if they can reasonably be located.
 3. File a copy with the court as soon as practicable, after the order has been served.
 4. Ensure the order is provided to the Records Section for entry into the California Restraining and Protective Order System.
- D. Search Warrants
1. If the person who has been served with a gun violence restraining order refuses to surrender any firearm or ammunition, the officer should consider whether to seek a search warrant. If a search warrant is to be obtained, the preparation and service of the search warrant shall be done in accordance with General Order Q-2.
 - a. The officer serving the search warrant shall take custody of any firearm or ammunition that is controlled, possessed, or owned by the person who is the subject of the gun violence restraining order, including any that are discovered pursuant to the warrant, a consensual search, or other lawful search.
 - b. If the location being searched is jointly occupied and the officer finds the firearm or ammunition in the restrained person's custody, control, or possession, but the firearm or ammunition is owned by a person other than the restrained person, the firearm or ammunition shall not be seized if both of the following conditions are met:
 - (1) The firearm or ammunition is removed from the restrained person's custody or control or possession and stored in a manner that does not allow the restrained person to have control or access.
 - (2) There is no evidence that the owner unlawfully possesses the firearm or ammunition.
- E. Records Section Responsibilities
1. The Records Section is responsible for ensuring any proof of service for a gun violence restraining order served by a police officer or received from a clerk of the court is entered into CARPOS within one business day after the GVRO is served by an officer, or within one business day of receipt of proof of service if served by a person other than a law enforcement officer (PC 18115).
 2. Ensuring orders served verbally are entered in CARPOS (PC 18140).
 3. Copies of receipts of surrendered firearms or ammunition issued by other agencies for GVRO issued by the Stockton Police Department are properly maintained (PC 18120).
- F. Court-Ordered surrender of firearms and ammunition

1. Authorized members of the Department shall accept firearms and ammunition from any individual who is the subject of a GVRO. The member receiving any firearm or ammunition shall:
 - a. Record the individual's name, address, and telephone number.
 - b. Record the serial number of all firearms turned over.
 - c. Document the information on the applicable crime report or significant incident report.
 - d. Provide a property receipt to the individual who surrendered the firearms and ammunition.
 - e. Book all items per general order G-2.

G. Release of Firearms and ammunition

1. Firearms and ammunition taken into temporary custody or surrendered pursuant to a gun violence restraining order shall be returned to the restrained person upon the expiration of the order and in accordance with PC 18120 and 33850.