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POLICY/PROCEDURE NUMBER: 20-L.E.-019

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SUBJECT: GUN VIOLENCE RESTRAINING ORDERS

EFFECTIVE DATE: December 2, 2020

REVIEW DATE: December 2, 2021

AMENDS/SUPERSEDES: N/A

IACLEA STANDARDS: N/A

CSU POLICE DEPARTMENTS SYSTEM-WIDE OPERATIONAL GUIDELINE – NO

APPROVED: Gregory L. Murphy, Chief of Police

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I. PURPOSE

The purpose of this policy is to provide guidelines for petitioning and serving gun violence restraining orders and accounting for the firearms obtained pursuant to those orders. (Penal Code § 18108.)

II. POLICY

It is the policy of the CSU Northridge Department of Police Services to petition and serve gun violence restraining orders in compliance with state law and to properly account for firearms and ammunition obtained by the Department pursuant to such orders.

III. DEFINITIONS

Gun Violence Restraining Order – Civil restraining order prohibiting a named person from controlling, owning, purchasing, possessing, receiving, or otherwise having custody of any firearms or ammunition, including an ammunition magazine. (Penal Code § 18100.)

IV. PROCEDURES

A. Gun Violence Restraining Orders

Any officer who reasonably believes a person is a present danger to himself/herself or another person by controlling, owning, purchasing, possessing, receiving, or otherwise having custody of a firearm may request permission from his/her supervisor to petition the court for a gun violence restraining order.

Officers 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 that the officer believes to be possessed or controlled by the person. (Penal Code § 18107.) The petition should also describe why less-restrictive alternatives are ineffective or inadequate for the circumstances. (Penal Code § 18125; Penal Code § 18150; Penal Code § 18175.)

If it is not practical under the circumstances to submit a written petition, an officer may orally request an order, and then prepare and sign a declaration under penalty of perjury that recites the oral statements provided to the judicial officer and memorialize the order of the court on the appropriate Judicial Council form. (Penal Code § 18140.)

Officers should also consider requesting permission to petition the court for a gun violence restraining order (Penal Code § 18108):

1. When responding to a domestic disturbance where the residence is associated with a firearm registration or record.
2. When responding to any call or incident when a firearm is present or when one of the involved parties owns or possess a firearm.
3. During a contact with a person exhibiting mental health issues, including suicidal thoughts, statements, or actions if that person owns or possesses a firearm.

Officers should consider obtaining a mental health evaluation if the encounter involves a situation where there is a 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. (Penal Code § 18108.) See the Police Response to Persons Suffering from Mental Illness Policy (Policy/Procedure Number 10-S.O.-022).

#### B. Service of Gun Violence Restraining Orders

An officer serving any gun violence restraining order shall:

1. Verbally ask the subject of the order if he/she has any firearm, ammunition, or magazine in his/her possession or under his/her custody or control. (Penal Code § 18160.)
2. Request that the firearms or ammunition be immediately surrendered and issue a receipt for the surrendered items. (Penal Code § 18120.)
3. Take into temporary custody any firearm or other deadly weapon discovered in plain view or pursuant to consent or other lawful search. (Penal Code § 181250.)
4. Inform the restrained person of any scheduled hearing regarding the order. (Penal Code § 18160.)
5. Transmit the original proof of service form to the issuing court as soon as practicable but within one business day. (Penal Code § 18115.)
6. As soon as practicable, but by the end of his/her shift, submit proof of service to records personnel for prompt entry into the California Restraining and Protective Order System. (Penal Code § 18115.)

The officer should also inform the restrained person that he/she is required, within 24 hours, to surrender to a law enforcement agency any other firearms and

ammunition he/she owns or that are in his/her custody or control or sell them to a firearms dealer. This notification should be documented.

All firearms and ammunition collected shall be handled and booked in accordance with the Property and Evidence Packaging and Control Policy (Policy/Procedure Number 06-C.I.-003).

C. Service of Oral Gun Violence Restraining Orders

If a gun violence restraining order is obtained orally, the officer shall (Penal Code § 18140):

1. Serve the order on the restrained person in the manner outlined above, if the restrained person can reasonably be located.
2. File a copy of the order with the court as soon as practicable after the issuance.
3. Ensure the order is provided to records personnel for entry into the computer database for protective and restraining orders maintained by the Department of Justice.

D. Search Warrants

If a 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 the warrant service procedures contained within the Legal and Constitutional Authority for Search and Seizure, Interviews/Interrogation, and Arrest Policy (Policy/Procedure Number 08-L.E.-014). Additionally (Penal Code § 1542.5):

1. The officer serving the 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 discovered pursuant to the warrant, a consensual search, or other lawful search.
2. If the location being searched is jointly occupied and the firearm or ammunition is owned by a person other than the restrained person, the firearm or ammunition should not be seized if the following conditions are met:
  - a. The firearm or ammunition can be stored in a manner that does not allow the restrained person to have control or access.
  - b. There is no evidence that the owner unlawfully possesses the firearm or ammunition.
3. If a locked gun safe belonging to someone other than the subject of a gun violence restraining order is discovered, the officer shall not search the contents of the safe unless the owner consents or there is a valid search warrant for the safe. Any search of the safe must be done in the owner's presence.

E. Records Personnel Responsibilities

Records Personnel are responsible for ensuring:

1. Proof of service of any gun violence restraining order served by an officer or received from the clerk of the court is entered in the computer database system for protective and restraining orders maintained by the Department of Justice within one business day of service if 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. (Penal Code § 18115.)
2. Oral orders are entered into the California Restraining and Protective Order System. (Penal Code § 18140.)
3. Copies of receipts of surrendered firearms or ammunition issued by other agencies for gun violence restraining orders issued by the Department are properly maintained. (Penal Code § 18120.)

F. Court-Ordered Firearms and Ammunition Surrenders

Authorized members shall accept firearms and ammunition from any individual who is the subject of a gun violence restraining order. The member receiving any firearm or ammunition shall:

1. Record the individual's name, address and telephone number.
2. Record the serial number of the firearm.
3. Prepare an incident report and property report.
4. Provide a property receipt to the individual who surrendered the firearm and ammunition.
5. Package and submit the firearm and ammunition in accordance with the Property and Evidence Packaging and Control Policy (Policy/Procedure Number 06-C.I.-003).

G. Release of Firearms and Ammunition

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 court order and in accordance with Penal Code § 18120 and the Property and Evidence Packaging and Control Policy (Policy/Procedure Number 06-C.I.-003).

H. Gun Violence Restraining Order Coordinator

The Chief of Police will appoint a Gun Violence Restraining Order Coordinator. The responsibilities of the Coordinator include:

1. Developing and maintaining procedures for the filing of a petition for an order or a renewal of an order by Department members, also including procedures for requesting and serving (Penal Code § 18108):
  - a. A temporary emergency gun violence restraining order.
  - b. An ex parte gun violence restraining order.
  - c. A gun violence restraining order issued after notice and hearing.
2. Developing and maintaining factors to consider when assessing the need to seek an order, including:
  - a. Whether the threats have been made, and if so, whether the threats are credible and specific.
  - b. Whether the potential victim is within close proximity.
  - c. Whether the person has expressed suicidal tendencies.
  - d. Whether the person has access to firearms.

- e. The criminal history of the person, in particular any history of criminal violence, including whether the person is currently on parole, probation, or modified release.
  - f. The mental health history of the person, in particular whether the person has any history of mental illness or has ever been detained for being a danger to themselves or others.
  - g. Any upcoming holidays, anniversaries, or other dates of significance that may serve as a trigger for the person, such as the death of a family member.
3. Developing and maintaining procedures for the receipt and service of orders consistent with the requirements of Penal Code § 18115; Penal Code § 18120; Penal Code § 18135; Penal Code § 18140; and Penal Code § 18160. Procedures should include:
- a. Evaluation of an order to determine appropriate service and necessary precautions shall follow the warrant service procedures contained within the Legal and Constitutional Authority for Search and Seizure, Interviews/Interrogation, and Arrest Policy (Policy/Procedure Number 08-L.E.-014).
  - b. Forwarding orders to Records Personnel for recording in appropriate databases and required notice to the court, as applicable.
  - c. Preparing or obtaining a search warrant prior to attempting service of an order, when appropriate. (Penal Code § 18108.)
  - d. Seizure procedures of firearms and ammunition at the time of issuance of a temporary emergency gun violence restraining order.
  - e. Verification procedures for the removal of firearms and ammunition from the subject of a gun violence restraining order.
  - f. Coordinating with the Shift Supervisor to provide officers who may be involved in petitioning for or serving orders with training on such orders. Training should include determining when a petition is appropriate, the process for seeking an order, and the service of such orders.
  - g. Reviewing each petition and any associated court documents for an order prepared by members, for compliance with this policy, Department procedures, and state law.
  - h. Developing and maintaining procedures for members to accept voluntarily surrendered prohibited items at times other than when an order is being served by the Department.
  - i. Procedures should include preparing and providing a receipt identifying all prohibited items to the person surrendering the items.
4. Coordinating review of notices of court hearings and providing notice to the appropriate officer of the hearing date and the responsibility to appear. (Penal Code § 18108.)

#### I. Renewal of Gun Violence Restraining Orders

A designated supervisor will be responsible for the review of a gun violence restraining order obtained by the Department to determine if renewal should be requested within the time prescribed by law. (Penal Code § 18190.)

#### J. Policy Availability

The Chief of Police or the authorized designee shall be responsible for making this policy available to the public upon request. (Penal Code § 18108.)

K. Training

The Shift Supervisor should ensure that members receive periodic training on the requirements of this policy. (Penal Code § 18108.)

V. REFERENCES

- A. CSU Gun Violence Restraining Order System-Wide Policy (Revised 9/2/2020)

## Appendix "A"

Current Status: *Active*

PolicyStat ID: 8486196



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**Last Revised:** 9/2/2020  
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**Owner:** *Mike Redmond: Asst VC, B&F*  
*Oper Support*  
**Area:** *Business and Finance*  
**Codes:**

## Gun Violence Restraining Order

### I. Policy

Under California law, individuals may file a petition requesting that the court issue a gun violence restraining order restricting a person from having in their custody or control, owning, purchasing, possessing, or receiving a firearm or ammunition. The following individuals may request a gun violence restraining order:

- An immediate family member of a person or a law enforcement officer
- A coworker who has substantial and regular interactions with a person and approval of their employer
- An employee or teacher of a secondary or postsecondary school with approval of a school administrator or a school administration staff member with a supervisory role.

Campus employees and students may request that the campus University Police Department seek a gun violence restraining order on their behalf. The police chief at each respective campus is the sole administrator responsible for approving and/or assisting employees and students who request that the court issue a gun violence restraining order.

### II. Procedure

The campus University Police Department shall develop, adopt, and implement written policies and standards for employees and students who request a gun violence restraining order restricting a person from having in their custody or control, owning, purchasing, possessing, or receiving a firearm or ammunition.

The campus University Police Department shall inform all appropriate administrators of the protocol for requesting a gun violence restraining order. If a campus employee or student makes such a request of an administrator other than the University Police Department, the request should be referred to the University Police Department for review.

The University Police Department will work with the CSU Office of General Counsel and the State Office of Attorney General to obtain from the court a gun violence restraining order if the Chief of Police has approved the request to obtain a gun violence restraining order.

### III. Authority

This policy is issued pursuant to [Part 6, Title 2, Division 3.2 of the California Penal Code](#), [Section II of the Standing Orders of the Board of Trustees of the California State University](#), and as further delegated by the [Standing Delegations of Administrative Authority](#).

All revision dates:

9/2/2020

## Attachments

No Attachments

## Approval Signatures

Approver	Date
Steven Relyea: Executive Vice Chan & CFO	9/2/2020
Mike Redmond: Asst VC, B&F Oper Support	8/31/2020
Bradley Wells: Assoc VC, Business & Finance	8/21/2020

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