

Gun Violence Restraining Order

Penal Code Sections 18100-18197

Presented by:

Garrett Gales – Sergeant of Threat Management Unit

Sam Lee - Mental Health Unit

Disclosures

- ▶ We do not have relevant financial relationship(s) with ineligible companies whose primary business is producing, marketing, selling, re-selling, or distributing healthcare products used by or on patients.
- ▶ We do not intend to discuss an unapproved/investigative use of a commercial product/device.

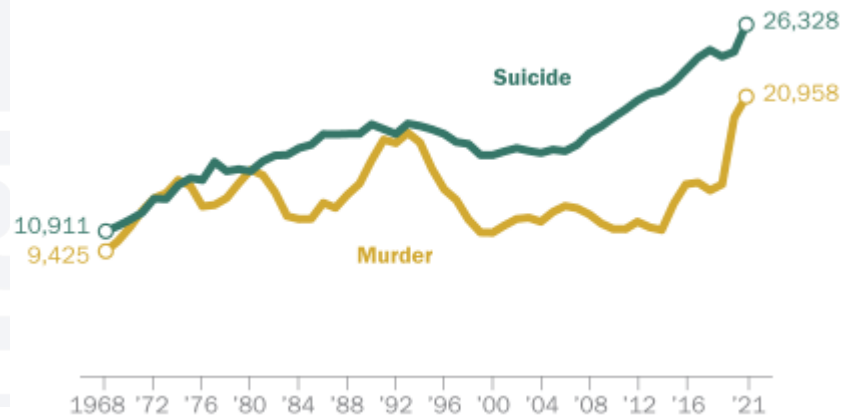
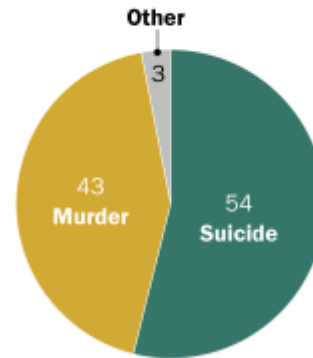


Gun deaths in the U.S. (National)

- ▶ 2021 – 48,830 total gun deaths
- ▶ 54% suicides (26,328)
- ▶ 43% murders (20,958)
- ▶ Remaining accidental (549)
- ▶ Involved law enforcement (537)
- ▶ Undetermined circumstances (458)
- ▶ 23% increase

Suicides accounted for more than half of U.S. gun deaths in 2021

% of U.S. gun deaths, by type



- ▶ Center for Disease Control and Prevention 7/2023

Who can legally purchase firearms?

- ▶ 21 years old to purchase handgun
- ▶ 18 years old to purchase rifle or shotgun; possess unexpired hunting license
- ▶ Active Law Enforcement/ Military
- ▶ California Personal Firearms Eligibility check
- ▶ Dealer's Record of Sale (DROS) process
- ▶ 10-day waiting period
- ▶ No limit of number of firearms
- ▶ One handgun purchase any 30-day period

Who **CANNOT** purchase firearms?

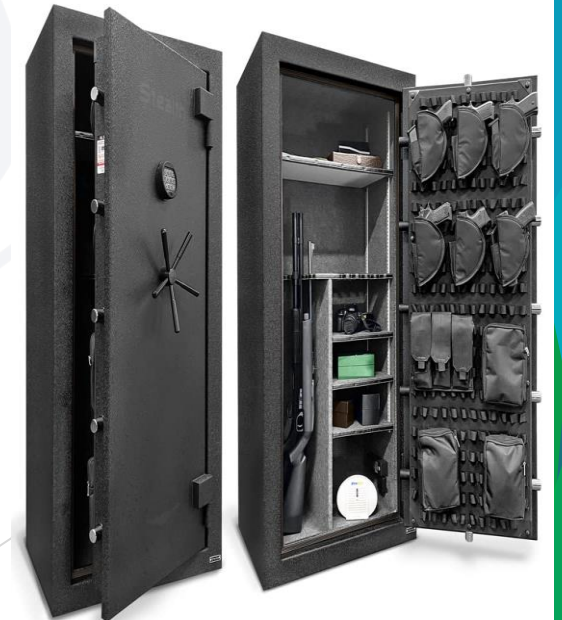
- ▶ Prior felony convictions, domestic violence conviction, weapon law conviction
- ▶ Prior misdemeanor per PC 29805
- ▶ Condition of probation or parole
- ▶ Subject to restraining orders
- ▶ Addicted to narcotics
- ▶ Threaten public officers, employees, and school officials/ Intimidate witness or victims
- ▶ Existing mental health prohibition
- ▶ Many more...

Types of Firearms



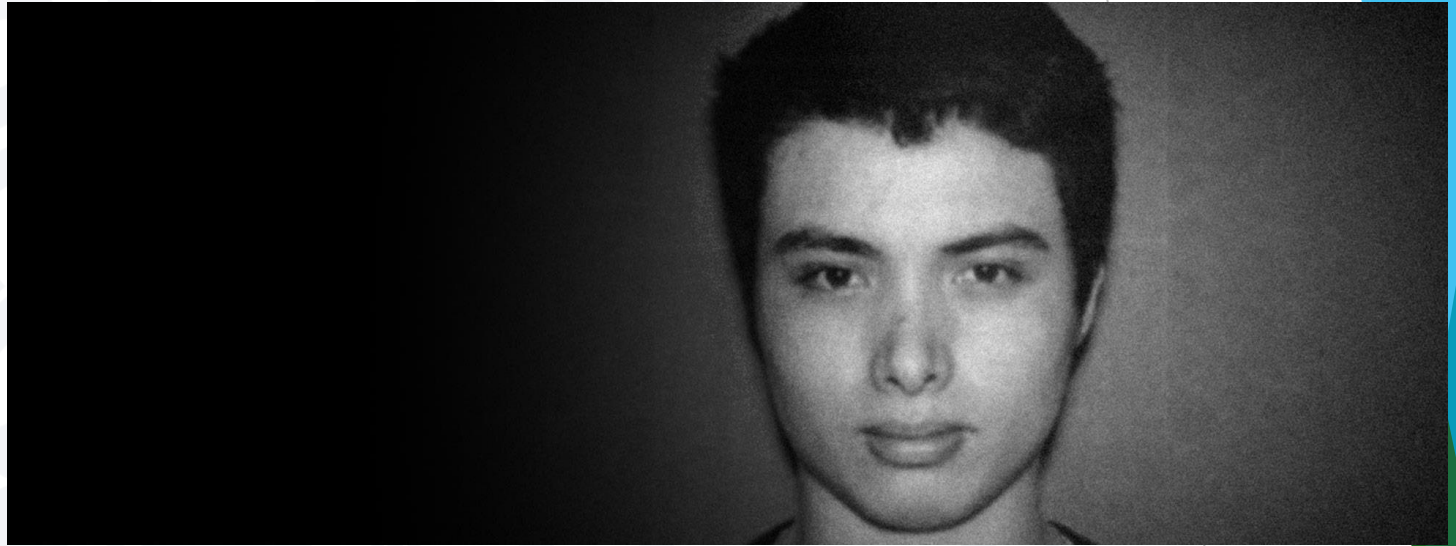
Safe Storage

- ▶ Penal Code 25100 -25200
- ▶ If person under 18 years of age is likely to be present and can access
- ▶ Secured locked container or locked with locking device rendering inoperable



History

- ▶ 2014
- ▶ Isla Vista, CA
- ▶ Elliott Rodger
- ▶ 2 handguns
- ▶ 7 deaths
- ▶ History
- ▶ Gun Control and Improvement
 - ▶ 2016 – Gun Violence Restraining Order



1971

What does a Gun Violence Restraining Order (GVRO) do?

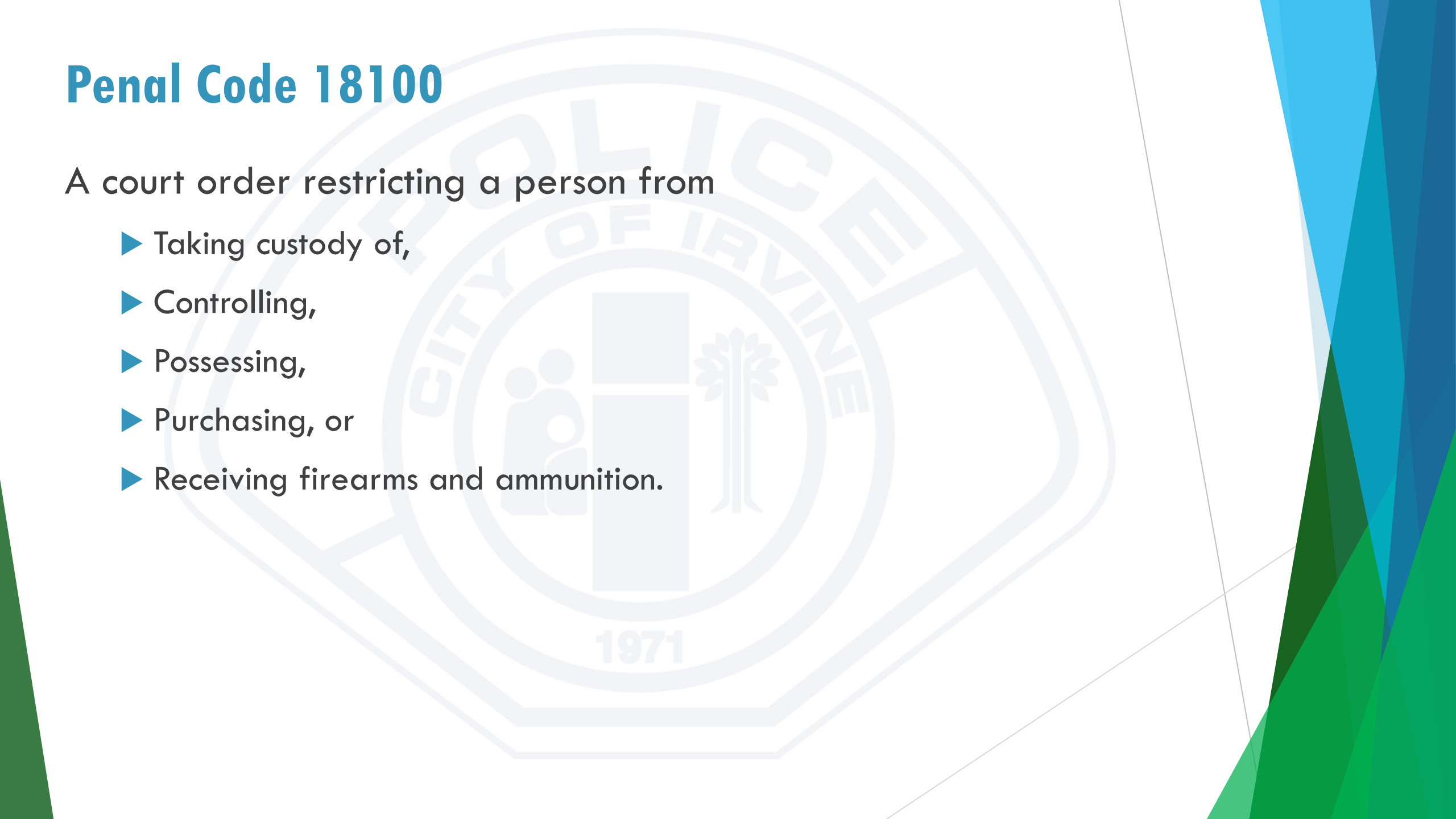
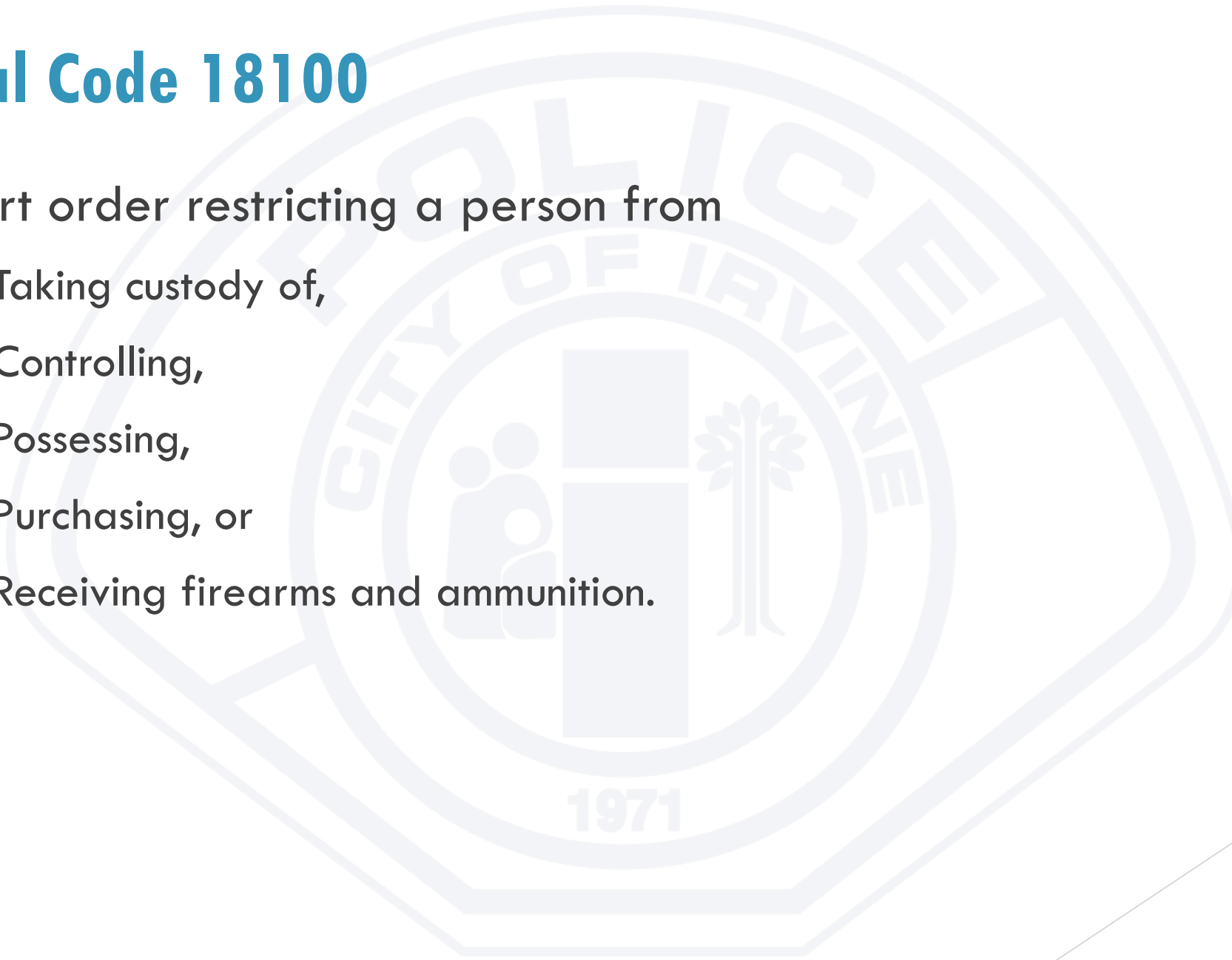
- ▶ A judge can grant a gun violence restraining order to stop someone from having, owning, or buying any firearms (guns), firearm parts, ammunition, or magazines.
- ▶ Once an order is granted by a judge, the police can be called to enforce the order and the restrained person will have to turn in any firearms or ammunition they have.



Penal Code 18100

A court order restricting a person from

- ▶ Taking custody of,
- ▶ Controlling,
- ▶ Possessing,
- ▶ Purchasing, or
- ▶ Receiving firearms and ammunition.



Who can petition?

- ▶ Law Enforcement or Agency
- ▶ The person's immediate family member
- ▶ The person's employer
- ▶ The person's co-worker
- ▶ An employee or teacher

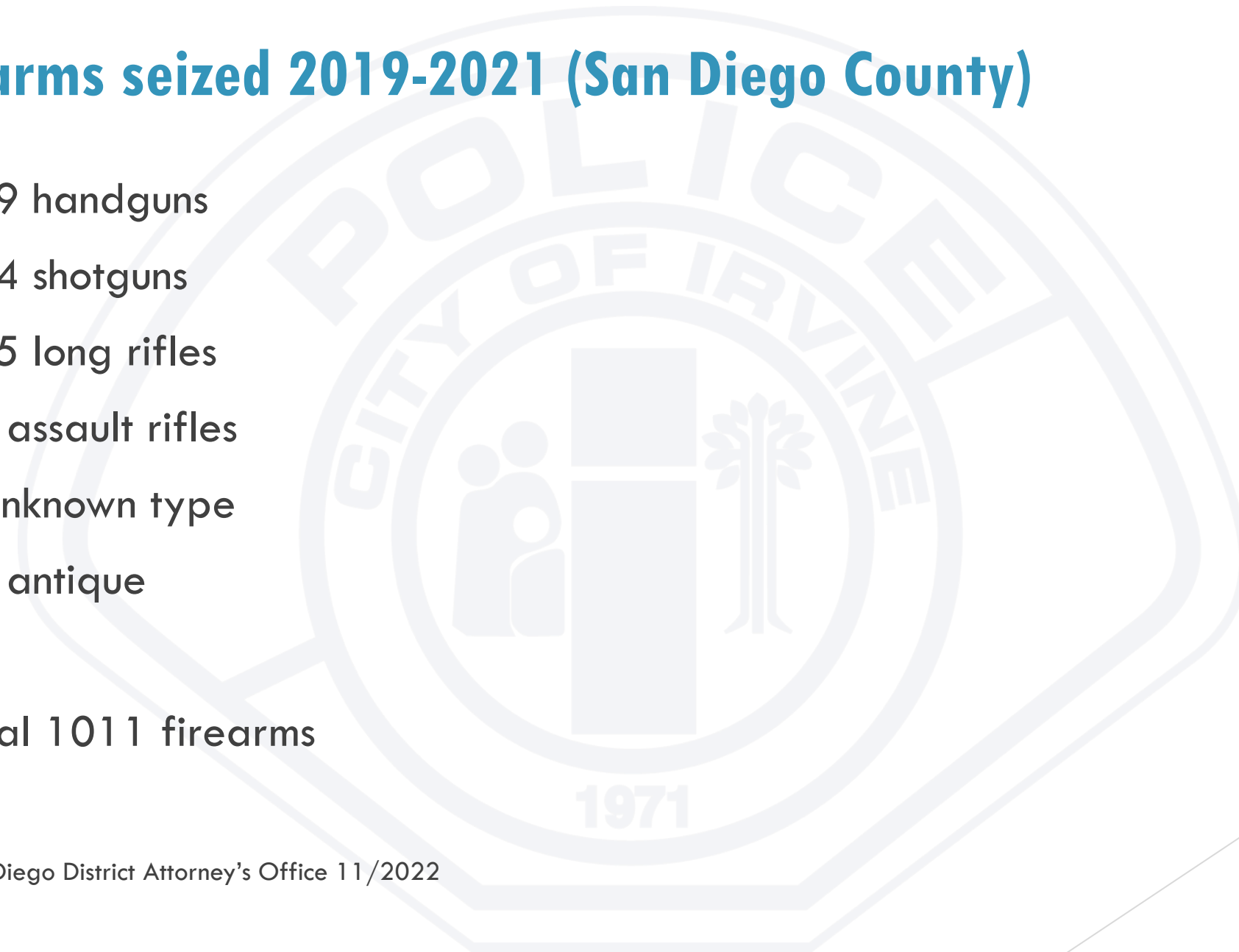
- ▶ You can ask a law enforcement officer to ask for a gun violence restraining order. If it is an emergency, you can call police and ask for one right away.
- ▶ If you do not want to call police for help, you can ask for this restraining order yourself*

Firearms seized 2019-2021 (San Diego County)

- ▶ 549 handguns
- ▶ 134 shotguns
- ▶ 265 long rifles
- ▶ 48 assault rifles
- ▶ 2 unknown type
- ▶ 13 antique

- ▶ Total 1011 firearms

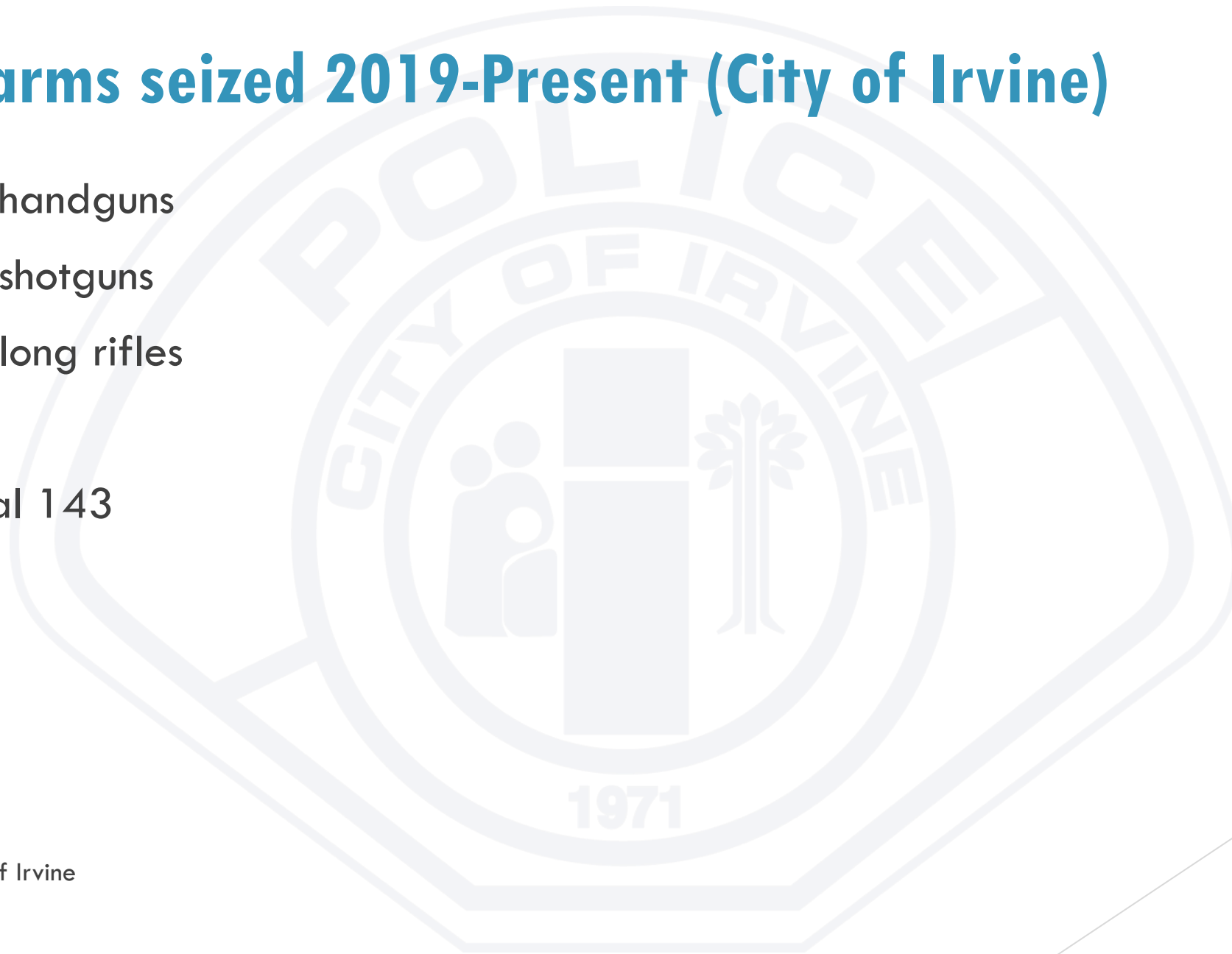
- ▶ San Diego District Attorney's Office 11/2022



Firearms seized 2019-Present (City of Irvine)

- ▶ 80 handguns
- ▶ 19 shotguns
- ▶ 44 long rifles
- ▶ Total 143

- ▶ City of Irvine



GVRO Public Safety Impact

- ▶ Family Violence or Stalking
- ▶ Substance Abuse
- ▶ Threats of Suicide
- ▶ Mental Health issues, dementia, PTSD trauma
- ▶ Threats against schools and workplaces
- ▶ Social media threats of violence (includes minors) mass violence, domestic terrorism
- ▶ Gang Violence

Three GVROs intersect

	Temporary (Emergency)	Ex Parte	After Hearing (Permanent)
Statutory Authority	PC 18145	PC 18150	PC 18175
Duration	21 days plus Continuances	21 days plus Continuances	1-5 Years, Renewable
Petitioner	Law Enforcement Only	LE, Family, Employer, Teacher	LE, Family, Employer, Teacher
Evidentiary Standard	Reasonable Cause	Substantial Likelihood	Clear and Convincing
Threshold Showing	Immediate and Present danger of Causing Personal Injury	Significant Danger in the near future of Causing Personal Injury	Any Significant Danger of Causing Personal Injury

Temporary Emergency GVRO (EPO-02)

- ▶ **Immediate and Present Danger**
 - ▶ EPO-002 is only based on LE Officer's oral recitation of facts to the judge
- ▶ Hearing date with expiration set 21 days out
- ▶ Serve in field and request surrender
- ▶ Consider warrant
- ▶ File within 3 days
- ▶ Enter into DOJ database
- ▶ Law Enforcement only

EPO-002 GUN VIOLENCE EMERGENCY PROTECTIVE ORDER

LAW ENFORCEMENT CASE NUMBER:

1. RESTRAINED PERSON (insert name): _____
Address: _____

Clerk stamps date here when form is filed.

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

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)

Case Number: _____

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: Irvine Police Department Telephone No: 949-724-7000 Badge No: _____

Address: 1 Civic Center Plaza, Irvine CA 92606

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)

Ex Parte GVRO

▶ PC 18150

- ▶ Temporary Civil restraining order pending permanent hearing
- ▶ Requested by Law Enforcement, immediate family, co-workers, employers, teachers
- ▶ Maximum 21 days, unless extended by court order
- ▶ Subject poses a **significant danger, in the near future**, of causing harm to self or others, based on consideration of factors

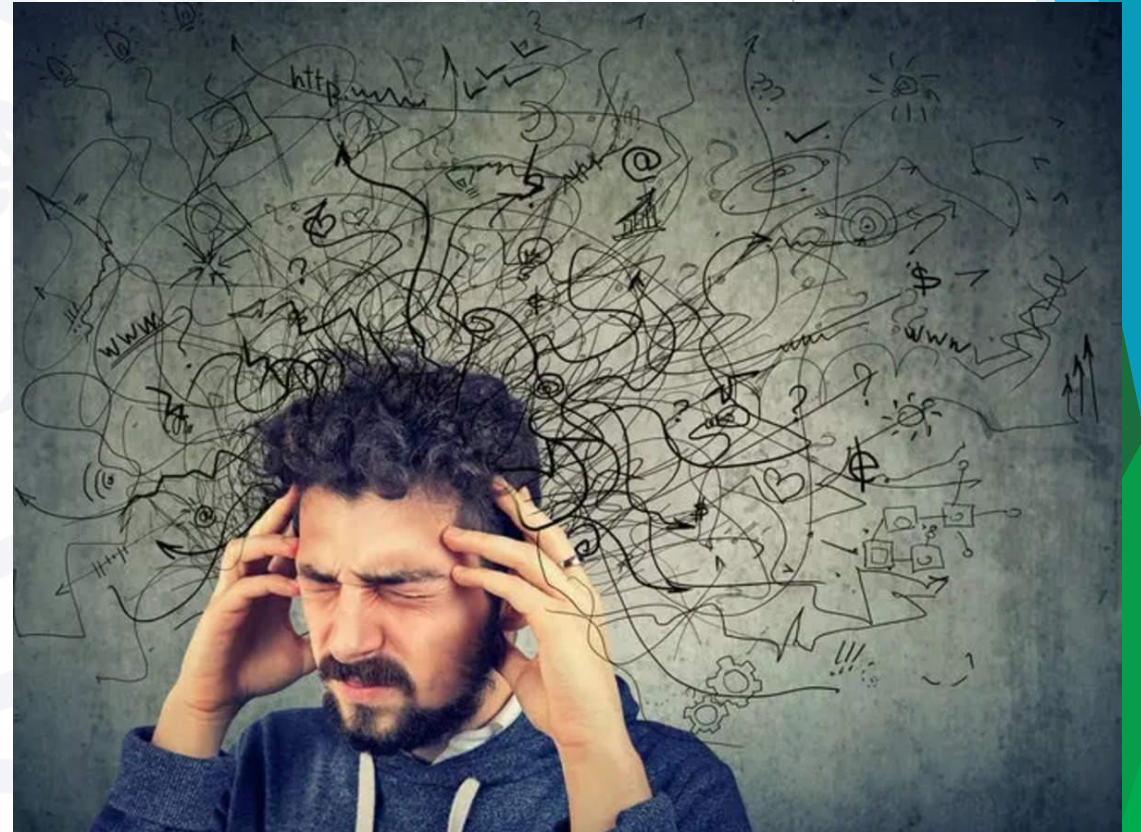
Permanent GVRO

- ▶ One to five years preventing firearm access
- ▶ Option to renew as long as dangerous condition exist
- ▶ Burden of proof: clear and convincing evidence



Mental Health

- ▶ Behavior based
- ▶ No mental health records required
- ▶ Prohibits future purchase of firearms
- ▶ Does not require a 72-hour hold
- ▶ File and seize firearm same day
- ▶ Dementia/Alzheimer's



Disqualifiers

- ▶ Suspect already prohibited from possessing firearms:
 - ▶ Prior felony convictions (lifetime ban)
 - ▶ Prior domestic violence conviction (lifetime ban)
 - ▶ Prior misdemeanor per PC 29805 (10-year ban)
 - ▶ Existing mental health prohibition
 - ▶ Tarasoff
- ▶ **UNLESS they possess firearms** 1971

Attempt suicide incident

- ▶ Privately Manufactured Firearm
- ▶ Unserialized firearm
- ▶ Ghost Gun
- ▶ Suppressor



Domestic Violence incident

- ▶ 26 firearms total
- ▶ 13 handguns
- ▶ 1 shot gun
- ▶ 12 long guns
- ▶ 1200 rounds of ammunition
- ▶ 82 magazines



Neighbor Dispute

- ▶ 9 Firearms
- ▶ 750 rounds of ammunition
- ▶ 1 Inert incendiary device



Work place

- ▶ 72 Firearms
- ▶ 168 magazines
- ▶ 20k rounds of ammunition



Questions?



Any
Question



Contact Us:

- ▶ Garrett Gales
 - ▶ Sergeant of Intel/Threat Management Unit
 - ▶ 949-724-7167
 - ▶ Ggales@cityofirvine.org
- ▶ Sam Lee
 - ▶ Mental Health Officer
 - ▶ 949-724-7442
 - ▶ Slee@cityofirvine.org