

CALIFORNIA DEPARTMENT OF JUSTICE

TITLE 11. LAW

DIVISION 1. ATTORNEY GENERAL

CHAPTER 12. GUN VIOLENCE RESTRAINING ORDERS

TEXT OF PROPOSED REGULATIONS

Article 1. Title and Scope

§ 961. Title and Scope.

(a) This article shall be known as the “Gun Violence Restraining Orders” (GVRO) Regulations.

(b) This article describes the processes and procedures to request, receive, secure, store, disseminate, and destroy GVRO information provided by the Department.

Note: Authority cited: Section 14231.5, Penal Code. Reference: Section 14231.5, Penal Code.

Article 2. Chapter Definitions

§ 962. Definitions.

(a) “Affiliated” means that a person is an employee of a Nonprofit Educational Institution or Public Agency, and is not a consultant or independent contractor for a Nonprofit Educational Institution or Public Agency.

(b) “Aggregated Data” means data that does not include Personal Identifying Information and is presented in summary counts and full calendar year increments to mitigate privacy risks and attempts at re-identification.

(c) “Bona Fide Research” means research that is characterized by all of the following qualities:

(1) The identification, evaluation, or resolution of a problem in a research field.

(2) The intent to contribute to the knowledge of a research field.

(3) The utilization of scientific methods and research methodologies.

(4) The reasonable expectation that the final research product may support publication in a peer-reviewed journal, program evaluation and quality improvement, or policy development.

(d) “Bona Fide Researcher” means a researcher who conducts Bona Fide Research and meets

all of the following requirements:

(1) Possesses a Master of Science degree, Master of Arts degree, other master's degree, or higher-level degree in a field that conducts research. These fields include, but are not limited to, physical sciences, life sciences, social sciences, and medical sciences.

(2) Is Affiliated with a Nonprofit Educational Institution or Public Agency for Research Purposes.

(3) Has research experience at an accredited university or college, research organization, or Public Agency.

(e) "CARPOS" means the California Restraining and Protective Order System.

(f) "Data Request Standard Application" means the application developed by the Research Center to obtain approval to receive GVRO De-Identified Individual-Level Data or Identified Individual-Level Data, which includes the information described in section 966 of these regulations.

(g) "Department" means the Department of Justice of the State of California.

(h) "De-Identified Individual-Level Data" means data, at the individual level, that does not include any Personal Identifying Information.

(i) "Entity" means any entity or person that is not a Nonprofit Educational Institution, Public Agency, or Bona Fide Researcher.

(j) "GVRO" means a gun violence restraining order that is in CARPOS and that has been issued pursuant to the Penal Code section 18100 et seq., including a temporary gun violence restraining order, an ex parte gun violence restraining order, and a gun violence restraining order after notice and hearing.

(k) "Identified Individual-Level Data" means data, at the individual level, that includes the Personal Identifying Information of any individual to which the data relates.

(l) "Nonprofit Educational Institution" means an organization immediately concerned with the Study and Prevention of Violence that employs a Bona Fide Researcher and that is characterized by all of the following qualities:

(1) Is exempt from income tax under title 26 United State Code section 501, subdivision (a) or (c)(3).

(2) Has the primary function of presenting formal instruction.

(3) Maintains a regular faculty and curriculum.

- (4) Has regularly enrolled students who attend classes and other educational activities offered by the organization.
- (5) Is a degree-granting college or university regionally accredited by an accreditation organization approved by the United States Department of Education.
- (m) “Personal Identifying Information” has the meaning set forth in Penal Code section 530.55, subdivision (b).
- (n) “Peer Review” means subjecting a researcher’s scholarly work, research, or ideas to the scrutiny of other researchers in the same field of research for the all of following purposes:
- (1) To ensure that the scholarly work meets the accepted standards of the researcher’s discipline.
 - (2) To prevent the dissemination of research that is compromised by unwarranted claims, unacceptable interpretations, or personal views.
- (o) “Public Agency” means any political subdivision or department of the State of California, or any county, city, district, or public authority, of the State of California that is immediately concerned with the Study and Prevention of Violence and employs a Bona Fide Researcher.
- (p) “Research Center” means the Department of Justice Research Center that processes data requests from internal and external requestors.
- (q) “Research Purposes” means analysis of data to conduct a systematic investigation, including research development, testing, or evaluation, which is designed to develop or contribute to general knowledge or education.
- (r) “Study and Prevention of Violence” means Bona Fide Research into violence that addresses any of the following:
- 1) The nature of the violence, including individual and societal determinants of risk for involvement in violence, whether as a victim or a perpetrator.
 - (2) The individual, community, and societal consequences of violence.
 - (3) The prevention and treatment of violence at the individual, community, and societal level.
 - (4) The scientific evidence on which sound violence prevention policies and programs can be based, including but not limited to, the effectiveness of existing laws and policies intended to reduce violence.
- (s) “Team Member” means any individual Affiliated with a Nonprofit Educational Institution

or Public Agency authorized by the Research Center, upon approval of a Data Request Standard Application, to access or analyze data obtained by a Bona Fide Researcher.

Note: Authority cited: Section 14231.5, Penal Code. Reference: Section 14231.5, Penal Code.

Article 3. Access and Use

§ 963. Eligibility for Access to Data.

(a) A Bona Fide Researcher from a Nonprofit Educational Institution or Public Agency is eligible to obtain all of the following information and data related to GVRO that is maintained in CARPOS:

(1) Aggregated Data.

(2) De-Identified Individual-Level Data.

(3) Identified Individual-Level Data, but only under both of the following conditions:

(A) The Bona Fide Researcher shall indicate that they are requesting a cohort of data as part of the Data Request Standard Application and provide Personal Identifying Information for the Department to match to the Department's CARPOS records. The Department will not release any Personal Identifying Information other than what is provided by the Bona Fide Researcher.

(B) The Bona Fide Researcher shall have legal authority to maintain the Personal Identifying Information already in its possession for which it is requesting the cohort of data, and demonstrate such authority to the Department.

(b) Entities are limited to obtaining Aggregated Data.

Note: Authority cited: Section 1798.24, Civil Code; Section 14231.5, Penal Code. Reference: Section 1798.24, Civil Code; Section 14231.5, Penal Code.

§ 964. Restrictions on Use or Disclosure of GVRO Data.

(a) A Nonprofit Educational Institution, Public Agency, Bona Fide Researcher, or Team Member may only use GVRO data as specified in the Data Request Standard Application, and as outlined in this section.

(b) For De-Identified Individual-Level Data or Identified Individual-Level Data, a Bona Fide Researcher from a Nonprofit Educational Institution or Public Agency shall only obtain GVRO data during the timeframe defined in the Bona Fide Researcher's Data Request Standard Application.

(c) A Nonprofit Educational Institution, Public Agency, Bona Fide Researcher, or Team Member shall not transfer, disclose, or disseminate GVRO data to any third party, unless approved in writing by the Research Center, and such transfer, disclosure, or dissemination is authorized by statute or court order.

(d) A Nonprofit Educational Institution, Public Agency, Bona Fide Researcher, or Team Member shall not disclose or disseminate any GVRO data or documents identifying any individual, except to the Research Center, unless approved in writing by the Research Center.

(e) A Nonprofit Educational Institution, Public Agency, Bona Fide Researcher, or Team Member shall aggregate GVRO De-Identified Individual-Level Data or Identified Individual-Level Data before it is published, disseminated, disclosed, or released to ensure that it does not create a risk of identifying Individuals.

(f) A Nonprofit Educational Institution, Public Agency, Bona Fide Researcher, or Team Member shall not publish, disseminate, disclose, or release GVRO data or documents received from the Department in any form if there is a reasonable possibility that an individual can be directly or indirectly identified from the information released, unless approved in writing by the Research Center.

(g) GVRO data is considered to have a reasonable possibility of directly or indirectly identifying an individual, if it includes:

(1) Any of the following identifying information:

(A) Name of Respondent or Petitioner.

(B) Federal Bureau of Investigations Number or Universal Control Number.

(C) Criminal Identification Index Number.

(D) Driver's License Number.

(E) Any other Personal Identifying Information, either alone or in combination with other factors, including geographic or county-level information, that creates a risk of indirectly identifying that individual.

(2) Rates, frequencies, other tabulations, or combined factors, including geographic

information (other than state and county-level information) and social stratification information (e.g., gender, race, economics), which will result in a category with fewer than 10 individuals.

(h) At least 10 business days before any publication or dissemination of any report, evaluation, or other document that uses or relies on GVRO data, a Bona Fide Researcher shall provide to the Research Center a complete draft of any report, evaluation, or other document. The Research Center shall review and comment on any draft report, evaluation, or other document, to ensure protection of confidentiality and to confirm that GVRO data obtained in accordance with this section is used for the purposes for which it was requested. Once the Research Center has completed its review and submitted its comments, the Bona Fide Researcher shall ensure that all subsequent revisions to the report, evaluation, or other document do not create a risk of identifying individuals or otherwise violate the conditions of release.

(i) If the Research Center determines that any publication, dissemination, disclosure, or release of GVRO data or analyses could compromise the identity of any individual, the Nonprofit Educational Institution, Public Agency, Bona Fide Researcher, or Team Member shall not publish, disseminate, disclose, or release, the report, evaluation, or other document containing any GVRO data.

(j) A Nonprofit Educational Institution, Public Agency, Bona Fide Researcher, or Team Member shall not sell any GVRO data.

(k) A Nonprofit Educational Institution, Public Agency, Bona Fide Researcher, or Team Member shall not disclose or transfer GVRO data in a legal proceeding or in response to a subpoena in the absence of a court order. A Nonprofit Educational Institution, Public Agency, Bona Fide Researcher, or Team Member shall give immediate notice to the Research Center of any subpoena or other legal proceeding in which the disclosure or transfer of GVRO data is requested.

(l) The Nonprofit Educational Institution, Public Agency, Bona Fide Researcher, and Team Member shall protect the confidentiality and security of GVRO data, shall ensure that the system or network containing GVRO data is secure and segmented from other applications, shall limit access to the system or network to authorized persons identified in the Data Request Standard Application, and shall take the following actions in the event of a security

breach:

(1) Immediately notify the Research Center of a breach in the security of the system or network.

(2) Submit a notification letter to the Department for publication on the Department's public website of any security breach affecting the Personal Identifying Information of 500 individuals or more.

(3) Reimburse the Department for any losses or expenses resulting from the security breach, such as expenses related to the credit monitoring for individuals whose data was exposed by the security breach.

(m) A Nonprofit Educational Institution, Public Agency, or Bona Fide Researcher shall notify the Research Center when the project, as specified in the applicable Data Request Standard Application, has been completed. All restrictions imposed in this section regarding use or disclosure of GVRO data survive the completion of the project.

(n) A Team Member is limited to accessing or analyzing data obtained by a Bona Fide Researcher only for the purposes specified in the Data Request Standard Application.

Note: Authority cited: Section 14231.5, Penal Code. Reference: Section 14231.5, Penal Code.

§ 965. Procedures for Requesting GVRO Aggregated Data.

(a) A Bona Fide Researcher or an Entity requesting GVRO Aggregated Data shall electronically submit a request to the Research Center by following the public records request process on the Attorney General's website.

(b) The Entity requesting GVRO Aggregated Data shall include in its request the complete calendar year or years for which it is requesting the GVRO Aggregated Data.

(c) Upon approval, the Department shall securely transfer the requested Aggregated Data to the Entity.

Note: Authority cited: Section 1798.24, Civil Code. Reference: Section 1798.24, Civil Code.

§ 966. Procedures for Requesting GVRO De-Identified Individual-Level Data or Identified Individual-Level Data.

- (a) A Bona Fide Researcher shall electronically submit a completed Data Request Standard Application to the Research Center by following the data request process on the Attorney General's website.
- (b) To complete the Data Request Standard Application a Bona Fide Researcher shall provide all of the following information on the Data Request Standard Application form:
- (1) Designation as a new request or a modified request. If the request is to modify an existing request, include the project number assigned to the existing request.
 - (2) Date of request.
 - (3) Name and position title of the Bona Fide Researcher.
 - (4) Bona Fide Researcher's address, city, state, and postal code which is connected to the Nonprofit Educational Institution or Public Agency with which the Bona Fide Researcher is Affiliated.
 - (5) Bona Fide Researcher's phone number and email address which is connected to the Nonprofit Educational Institution or Public Agency with which the Bona Fide Researcher is Affiliated.
 - (6) Name of the Nonprofit Educational Institution or Public Agency with which the Bona Fide Researcher is Affiliated.
 - (7) Name, phone number, and email address of the Nonprofit Educational Institution's or Public Agency's information security officer or Information Technology (IT) manager.
 - (8) Project title.
 - (9) Date of anticipated completion of the project or the report.
 - (10) List of information for each Team Member that includes all of the following:
 - (A) Name of the Team Member.
 - (B) The physical location from which the Team Member will access GVRO De-Identified Individual-Level Data or Identified Individual-Level Data.
 - (C) Whether the Team Member is part of the data analysis team.
 - (D) Whether the Team Member is part of the IT team.
 - (11) Signature of the Bona Fide Researcher, and date of signature of the Bona Fide Researcher.
 - (12) Completed Data Request Standard Application checklist that includes all of the

following:

(A) Project outline that describes all of the following:

(i) The purposes and objectives of the project or report.

(ii) Specifically, how the requested data will be used to support the project's Peer Review purposes, Research Purposes, and/or the Study and Prevention of Violence.

(iii) The expected benefits of the project.

(iv) If applicable, (1) the funding source of the project or report, including whether the funding source is a public or private grant, (2) the grant period, and (3) the grant expiration date.

(v) Proposed project design and methodology, including, (1) where the data analysis will be conducted, (2) whether a cohort will be submitted to request Identified Individual-Level Data, and (3) a detailed description of how the requested GVRO De-Identified Individual-Level Data or Identified Individual-Level Data will be used and analyzed.

(vi) Information pertaining to the applicant's project approval process, including review and approval by an institutional review board.

(B) Curriculum vitae of the Bona Fide Researcher.

(C) Signature of the Bona Fide Researcher, and the date of signature of the Bona Fide Researcher, acknowledging the restrictions on use or disclosure of GVRO data, as specified in section 964.

(D) A signed document entitled "Data Security Requirements," which includes the following provisions:

(i) The name, position title, signature, and date of signature, of the Nonprofit Educational Institution's or Public Agency's information security officer or IT manager.

(ii) A certification that the applicant will comply with these regulations and applicable federal, state, and local laws and policies governing access and use of personal information, including Penal Code section 14231.5, the California Information Practices Act (Civil Code Sections 1798 et seq.), the Federal Privacy Act of 1974 (United States Code,

Title 5, Section 552a), and United States Department of Justice, Criminal Justice Information Services (CJIS) Security Policy, Version 5.9, dated June 1, 2020, which is hereby incorporated by reference.

(iii) A requirement to implement and maintain appropriate administrative, physical, technical, and procedural safeguards to protect the system or network containing GVRO data from security breaches, hacks, viruses, disabling devices, malware, and other forms of malicious attacks.

(iv) A prohibition against copying, modifying, destroying, or deleting GVRO data other than as authorized by these regulations or in writing by the Department.

(v) A prohibition against storing GVRO data at a location not listed in the Data Request Standard Application, in a data server maintained by a cloud provider, at a location outside of the United States, or on any portable device if the portable device is not password protected.

(E) Any relevant research materials, including, but not limited to proposals, endorsements, and questionnaires.

(F) A copy of the approval by an institutional review board (including the documentation submitted as part of the approval process and the application number and expiration date), demonstrating that the institutional review board considered relevant federal and state laws governing human research.

(c) The Data Request Standard Application shall include written verification of formal approval of the research project by the applicant's Institutional Review Board, if a Bona Fide Researcher is from a Nonprofit Educational Institution, or by the Committee for the Protection of Human Subjects, if a Bona Fide Researcher is from a Public Agency.

(d) The Bona Fide Researcher shall provide written verification to the Research Center on official letterhead and signed by an authorized official, verifying that the Bona Fide Researcher and all Team Members are Affiliated with the Nonprofit Educational Institution or Public Agency, and that the Bona Fide Researcher and all Team Members have received human subject protection and ethics training.

(e) To renew a Data Request Standard Application, the Bona Fide Researcher shall complete the renewal process within 90 calendar days before the expiration date of the application. Before the expiration date, the Research Center shall notify the Bona Fide Researcher to submit a project renewal request. A project renewal request shall be submitted in writing on official letterhead to the Research Center and include all of the following information:

- (1) Any changes in personnel and updated contact information, including removal or addition of the Bona Fide Researcher or Team Members.
- (2) Any changes in the details of the project.
- (3) Any technology changes, including software or hardware changes to the computers or servers used for the project.
- (4) Any changes to the location where the GVRO De-Identified Individual-Level Data or Identified Individual-Level Data is stored or accessed.
- (5) Any changes to the security protocols used to prevent unauthorized access to GVRO De-Identified Individual-Level Data or Identified Individual-Level Data.
- (6) If applicable, any changes or updates in the approval of the institutional review board approval (including all documentation submitted as part of the approval process, the application number and expiration date).

Note: Authority cited: Section 14231.5, Penal Code. Reference: Section 14231.5, Penal Code.

Article 4. Destruction of Data

§ 967. Procedures for Destruction of GVRO Data.

(a) When a Bona Fide Researcher has concluded a research project or report, in accordance with the restrictions on use or disclosure of GVRO data, as specified in section 964, the Bona Fide Researcher shall submit to the Research Center, in writing, a signed and dated certificate of data destruction confirming all of the following:

- (1) The project title and project number.
- (2) The type of data to be destroyed.
- (3) The name of the Bona Fide Researcher.

- (4) Acknowledgement that all confidential information received from the Research Center has been sanitized using one or more of the approved destruction methods listed in National Institute of Standards and Technology (NIST) Special Publication 800-88, Revision 1, Guidelines for Media Sanitation (December 2014), which is hereby incorporated by reference.
- (5) The date that all electronic files containing GVRO De-Identified Individual-Level Data or Identified Individual-Level Data were destroyed.
- (6) The name of the witness or witnesses of the data destruction.
- (7) The position title of the witness or witnesses in the research team.
- (8) Acknowledgement by the Bona Fide Researcher that failure to comply with the Department's data destruction protocols required by this section may result in an audit of the project associated with the GVRO De-Identified Individual-Level Data or Identified Individual-Level Data.
- (9) A description of the items disposed of or destroyed.
- (10) An explanation of the method of destruction used.

Note: Authority cited: Section 14231.5, Penal Code. Reference: Section 14231.5, Penal Code.

Article 5. Enforcement of Regulations

§ 968. Enforcement of Regulations by Department.

- (a) As a condition of releasing GVRO data to a Bona Fide Researcher or Entity, including Aggregated Data, De-Identified Individual-Level Data, or Identified Individual-Level Data, the Department may inspect the facility of a Nonprofit Educational Institution or Public Agency in which the GVRO information is secured, stored, destroyed, or disposed, and audit any and all records, including emails and manuscript drafts, of the project associated with the Data Request Standard Application to determine compliance with these regulations.
- (b) Any violation of these regulations by a Nonprofit Educational Institution, Public Agency, Bona Fide Researcher, Team Member, or Entity may, at the discretion of the Department, result in restriction of access to GVRO data, closure of a current project, and/or a denial of future requests for GVRO data.

Note: Authority cited: Section 14231.5, Penal Code. Reference: Section 14231.5, Penal Code.