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San Diego City Attorney Mara Elliot,

Thank you for meeting with San Diego County Gun Owners PAC (SDCGO) to discuss Gun Violence Restraining Orders (GVRO). I appreciate you and your staff taking the time to address our questions about your process and civil rights. As promised, below we have specific suggestions to address concerns with the way GVROs are being handled by your office. Conceptually, SDCGO supports the removal of weapons from dangerous criminals and those who have been found to be mentally unfit and that support is not necessarily the same as supporting GVROs nor is it the same as supporting your current procedures regarding GVROs. Your answers to our questions better clarified your GVRO goals and GVRO procedures. SDCGO has concerns and suggestions for improvement that will help protect the civil rights of gun owners.

When SDCGO asked “what is the specific, clearly defined burden of proof required to initiate a GVRO” you answered that it is the identical standards law enforcement uses because your process requires that law enforcement officers are involved with every GVRO.

Suggestion: You do not have a written policy showing that law enforcement officers are required in your process. To ensure your staff knows exactly what your requirements are regarding GVROs and to minimize mistakes or abuse, SDCGO recommends a strong, clear written guide for your GVRO policies.

When SDCGO asked “what is the clearly defined relationship required between someone initiating a GVRO and the receiver of a GVRO”, you clarified that family or law enforcement are the only ones who can get a GVRO and expressed concerns with the idea of expanding it to non-family members or non-law enforcement. SDCGO shares your concerns with allowing GVROs to be initiated by non-family members and non-law enforcement.

Suggestion: Please be as vocal and persistent about your opposition of expanding the categories of people who can be granted a GVRO as you are about your support of GVROs. As we discussed, California’s legislature is considering expanding the category and needs to hear from advocates of GVROs who are opposed to this idea.

When SDCGO asked “what is the process and how have you streamlined the process for returning firearms to people after due process if they are shown to not be a danger to their self or others and are mentally fit?”, you had no response because your office has not experienced this yet.

Suggestion: When you complete your written procedures regarding GVROs, please include information about the responsibility the City Attorney’s office has in correcting mistakes that involve removing firearms from those who were not proven to be criminals or mentally unfit.

When asked, “is the City Attorney’s Office committed to prosecuting individuals who file a GVRO knowing the information in the petition to be false or with intent to harass”, you indicated that you were committed to prosecuting false accusations regarding GVROs.

Suggestion: Include your commitment to prosecuting false accusations in your written procedures.

When asked, “has the City Attorney’s office received any claims that a GVRO has been filed with false information or intent to harass” you indicated that you have not.

The main concern SDCGO has with GVROs is best summed up with our last question: “The real-world example scenarios you describe when issuing the GVROs your office has issued all describe instances where laws were clearly broken. In some cases, multiple laws were clearly broken. In every scenario the laws were broken to the extent that law enforcement officers would have no legal barrier to confiscating firearms. This would suggest that a GVRO was not required to remove firearms from gun owners who commit a crime or gun owners who are mentally unfit. If they are breaking the law or mentally unfit, why was a GVRO required? If they were not breaking the law or mentally unfit, why are we taking guns away?”

The City Attorney’s office is using law enforcement in every GVRO, the officer’s probable cause standards are unchanged by GVROs, and every indication is that there are already laws in place that give law enforcement the authority they need to confiscate firearms from people arrested for dangerous crimes and people detained because their behavior appears to make them mentally unfit. Because this is the case, there appears to be no reason or need by law enforcement for GVROs. The only reason your office gave for the need of GVROs was to ensure that someone who has been arrested for a crime and their firearms confiscated, could not purchase firearms after they make post bail and while they are waiting for their court date.

We were unable to find a case in California that involved someone who was out on bail and was able to pass a background check, wait the legally required 10 days, pass the required safety/proficiency test, and legally obtain a firearm for lawful or unlawful purposes. This means GVROs are not filling a law enforcement need, but do appear to be designed to impact people’s civil rights. During our discussion you stated that one of the factors that ensures your office cannot abuse GVROs is your lack of a budget. Not having the budget to abuse a process that could have a negative effect on civil rights is not a strong safeguard against abuse; especially since you have no written policies or procedures.

To summarize, the City Attorney's office is having budget issues. GVROs are unnecessary to accomplish the goal of confiscating guns from violent criminals and the mentally unfit. There appears to have never been a problem with people out on bail legally obtaining firearms. You have no written procedure on GVROs.

In collusion, SDCGO suggests the San Diego City Attorney de-emphasize GVROs. There appears to be no need that GVROs are not a part of your office's focus. Instead support law enforcement handling firearms issues and criminals/mentally unfit. Your office made did not make a clear case for needing GVROs, you indicated you do not have a sufficient budget to execute the basic duties required, and you have no written procedures. All of these issues indicate that your time and resources are simply stretched too thin to take away from the numerous other business the city attorney's office is tasked with and GVROs are not a valuable or needed tool for law enforcement, crime victims, or mental health.

SDCGO strongly aggress with the concept of removing weapons from criminals and the mentally unfit but are not convinced that your office's involvement with GVROs does anything to help or improve that goal. We remain worried that your current procedures are wide open to abuse and/or mistakes and ask that if you do not discontinue your office's emphasis on GVROs, you do emphasize implementing a written procedure.

Thank you,

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