



TOWN OF FAIRFAX
STAFF REPORT
September 3, 2014

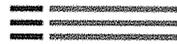
TO: Mayor and Town Council
FROM: Michele Gardner, Town Clerk 
SUBJECT: Support for California Assembly Bill 1014 to reduce gun violence in our communities

RECOMMENDATION

No action - for informational purposes

DISCUSSION

Mayor Weinsoff requested this item be added to the agenda. He is a signatory to the attached letter in support of AB 1014.



MAYORS AGAINST ILLEGAL GUNS

August 27, 2014

Governor Jerry Brown
c/o State Capitol, Suite 1173
Sacramento, CA 95814

Assembly Speaker Toni G. Atkins
c/o State Capitol, Room 219
Sacramento, CA 95814

**Senate President pro Tem Darrell
Steinberg**
c/o State Capitol, Room 205
Sacramento, CA 95814

**Assembly Majority Floor Leader V.
Manuel Pérez**
c/o State Capitol, Room 4112
Sacramento, CA 95814

Senate Majority Leader Ellen M. Corbett
c/o State Capitol, Room 313
Sacramento, CA 95814

**Assembly Minority Leader Connie
Conway**
c/o State Capitol, Room 3104
Sacramento, CA 95814

Senate Minority Leader Bob Huff
c/o State Capitol, Room 305
Sacramento, CA 95814

**RE: California coalition of Mayors Against Illegal Guns Support for Legislation to Create
Gun Violence Restraining Order Process**

Dear Governor Brown and California state legislative leadership:

The California coalition of Mayors Against Illegal Guns urges you to enact Assembly Bill 1014 to protect Californians from gun violence.

Mayors Against Illegal Guns is a coalition of more than 1,000 current and former mayors in California and across the country who recently joined with Moms Demand Action for Gun Sense in America to form Everytown for Gun Safety, a coalition of moms, mayors, law enforcement, gun violence survivors, and 2 million everyday Americans. The California coalition of Mayors Against Illegal Guns is a coalition of 69 mayors representing more than 11 million Californians.

We watched with horror on May 23, 2014 as a young man murdered six people in Isla Vista, CA. The killer's parents had contacted police after he made suicidal and homicidal statements. But police decided he did not meet the standard for emergency commitment—and no one could act in time to keep guns out of his hands. AB 1014 would empower law enforcement and family members who see troubling warning signs in cases like these to petition a court and temporarily prohibit a dangerous person from having guns.

Gun violence restraining orders (GVROs) would create an opportunity to stop gun violence in real life-or-death situations while still protecting the Second Amendment rights of lawful gun owners. Under current federal and California state law, a person is only prohibited from buying or possessing guns if they have been convicted of a prohibiting crime, have been adjudicated as mentally ill or hospitalized to a mental institution, or else is subject to a restraining order protecting a particular individual. Other dangerous people may display significant and serious warning signs of violence, but will still be able to buy guns. GVROs would allow family members and law enforcement—often the first to see these warning signs—to present evidence of such danger to a judge, who could temporarily prohibit a person from gun possession and order them to temporarily turn in their guns if they were able to meet the high burden of proof the law requires.

Under AB 1014, courts can order a short-term GVRO if a family member or law enforcement can show a substantial likelihood that a person poses a significant danger of injury to themselves or others with a gun and if all other avenues have been exhausted; alternatively, law enforcement can obtain an order if they demonstrate that there is reasonable cause to believe the person poses an immediate and present danger of causing injury. A short-term GVRO can last for up to 21 days. Before a final GVRO lasting for one year can be issued, the restrained person will be entitled to a full hearing—and the petitioner will have to show by clear and convincing evidence that the subject of the order poses a significant danger of injury to themselves or others and that all other avenues have been exhausted.

The standards for issuing a GVRO in AB 1014 are appropriately rigorous to ensure that gun rights are not violated, and courts will carefully consider whether the person has a dangerous background. The bill requires courts to consider whether the person has been violent or made threats of violence, whether they have violated other protective orders, and whether they have had criminal convictions—and the bill advises courts to consider past unlawful use of guns, prior arrests, and other evidence of an increased risk of violence. Critically, the bill further protects Californians from abuse by making it a crime to petition for a GVRO with false information or with the intent to harass.

The GVRO process closely mirrors California's existing domestic violence restraining order (DVRO) process, as well as the process for mental health commitments. The DVRO law also includes both a long-term order, which is issued only after the respondent has an opportunity to appear at a hearing, and a short-term *ex parte* phase, which applies for the emergency period before a court can hold a full hearing with all parties present. Likewise, this is how California structures the mental health commitment process: A person may be held for a short-term hold without a hearing, but can only be committed for a longer period after they have the benefit of a full legal hearing.

Unlike DVROs and unlike mental health commitments, GVROs are designed exclusively to prevent gun violence. Rather than deciding whether domestic abuse has occurred or whether a person suffers from severe mental illness, judges in the GVRO context will specifically determine whether a person is too dangerous to be armed. California has an opportunity to lead the way in this critical public safety area, joining Connecticut and Indiana, which passed GVRO

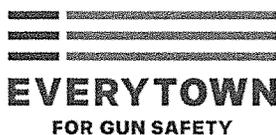
laws in 1999 and in 2006, respectively. Law enforcement and loved ones concerned that a person will harm themselves or others will be able for the first time to step in and keep guns out of dangerous hands.

We urge the governor and both houses of the legislature to protect Californians by promptly enacting AB 1014.

Sincerely,

Mayors Against Illegal Guns, California

| | |
|---------------------------------------|--|
| Alameda Mayor Marie Gilmore | Martinez Mayor Rob Schroder |
| American Canyon Mayor Leon Garcia | Monrovia Mayor Mary Ann Lutz |
| Antioch Mayor Wade Harper | Montclair Mayor Paul Eaton |
| Benicia Mayor Elizabeth Patterson | Morgan Hill Mayor Steve Tate |
| Berkeley Mayor Tom Bates | Newark Mayor Alan Nagy |
| Beverly Hills Mayor Lili Bosse | Novato Mayor Eric Lucan |
| Blue Lake Mayor Sherman Schapiro | Oakland Mayor Jean Quan |
| Calabasas Mayor Fred Gaines | Orange Cove Mayor Gabriel Jimenez |
| Carmel-by-the-Sea Mayor Jason Burnett | Palm Springs Mayor Stephen Pougnet |
| Carson Mayor Jim Dear | Palo Alto Mayor Nancy Shepherd |
| Cathedral City Mayor Kathleen DeRosa | Pasadena Mayor Bill Bogaard |
| Chula Vista Mayor Cheryl Cox | Petaluma Mayor David Glass |
| Claremont Mayor Joseph Lyons | Pomona Mayor Elliott Rothman |
| Concord Mayor Timothy Grayson | Port Hueneme Mayor Jonathan Sharkey |
| Corona Mayor Eugene Montanez | Redlands Mayor Pete Aguilar |
| Culver City Mayor Meghan Sahli-Wells | Rialto Mayor Deborah Robertson |
| Daly City Mayor David Canepa | Richmond Mayor Gayle McLaughlin |
| Davis Mayor Joseph Krovoza | Ridgecrest Mayor Daniel Clark |
| Del Mar Mayor Lee Haydu | Sacramento Mayor Kevin Johnson |
| Elk Grove Mayor Gary Davis | Salinas Mayor Joe Gunter |
| Emeryville Mayor Jac Asher | San Bruno Mayor Jim Ruane |
| Encinitas Mayor Teresa Barth | San Francisco Mayor Edwin Lee |
| Fairfax Mayor David Weinsoff | San Jose Mayor Chuck Reed |
| Fremont Mayor Bill Harrison | San Leandro Mayor Stephen Cassidy |
| Gonzales Mayor Maria Orozco | San Luis Obispo Mayor Jan Marx |
| Gustine Mayor Dennis Brazil | San Rafael Mayor Gary Phillips |
| Hayward Mayor Barbara Halliday | Santa Ana Mayor Miguel Pulido |
| Healdsburg Mayor Jim Wood | Santa Barbara Mayor Helene Schneider |
| Inglewood Mayor James Butts | Santa Monica Mayor Pam O'Connor |
| La Mesa Mayor Art Madrid | Stockton Mayor Anthony Silva |
| Livermore Mayor John Marchand | Union City Mayor Carol Dutra-Vernaci |
| Los Angeles Mayor Eric Garcetti | Vallejo Mayor Osby Davis |
| Los Gatos Mayor Steven Leonardis | West Hollywood Mayor John D'Amico |
| Malibu Mayor Skylar Peak | West Sacramento Mayor Christopher Cabaldon |
| Manhattan Beach Mayor Amy Howorth | |



California Assembly Bill 1014 – Gun Violence Restraining Orders

- ❑ **Bottom Line:** Assembly Bill 1014 will enable courts to temporarily prohibit a person from having guns if law enforcement and immediate family members show that he “poses a significant danger” to himself or others. This gun violence restraining order (GVRO) process provides an opportunity to intervene before dangerous warning signs escalate into murder—while requiring a high standard of proof before a person becomes prohibited.
- ❑ **GVROs would enable family members and law enforcement, who are often the first to see warning signs, to ask for a prohibiting order that lasts for an emergency period of 21 days.**
 - Under current federal law, a person is only barred from having guns if he or she is convicted of certain crimes, adjudicated as mentally ill or committed to a mental institution, or subject to a domestic violence restraining order. California law also temporarily prohibits people subject to shorter-term hospitalizations. Other dangerous people may display warning signs, but will still be able to possess guns unless they are hospitalized or convicted of a serious crime.
 - Under the GVRO process, law enforcement officers and immediate family members would present evidence to a judge that a person is too dangerous to possess guns. If the judge finds that the person poses a significant danger of personal injury by having a gun and that all other alternatives are inadequate, the court could prohibit him and order him to turn in his guns.¹
- ❑ **Before any longer-term GVRO may be issued, the person would be entitled to a full legal hearing before the person may be prohibited for a full year.**
 - Family members and law enforcement can petition for a GVRO that lasts for one year, and the subject will have the opportunity to respond to arguments that he is too dangerous to have a gun. Judges may only issue a GVRO if they hear “clear and convincing evidence”—a very high legal standard—that the person poses a significant danger of personal injury by having a gun.
 - AB 1014 directs courts to consider several indicators of violence, including recent threats and acts of violence, violations of protective orders, criminal convictions, and other signs of increased risk.
 - Existing law for domestic violence restraining orders has a similar structure: Orders may be issued for brief emergency periods, but the subject must have a legal hearing before a longer-term order is issued.
 - Similar laws have been in place in Connecticut since 1999 and in Indiana since 2006.
- ❑ **AB 1014 includes protections against abuse: It is a misdemeanor for any person to file for a GVRO with the intention to harass or else to give the court false information in a GVRO proceeding.**
- ❑ **Before he killed 6 people near the University of California, Santa Barbara on May 23, the Isla Vista shooter displayed troubling warning signs. AB 1014 would empower law enforcement and family members who see that kind of behavior to intervene and seek a temporary prohibition.**
 - Weeks before the massacre, the shooter had posted frightening messages on social media with homicidal and suicidal threats. His parents alerted law enforcement and asked them to step in.
 - The shooter had no criminal or mental health history that prohibited him from having guns, and he was a legal gun owner. The police determined that he did not meet the criteria for hospitalization, and were unable to keep guns out of his hands.
 - If AB 1014 had been in place, the shooter’s parents or law enforcement could have gone to court and presented evidence of his dangerous behavior—and the court may have been able to issue a GVRO, requiring the shooter to turn in his firearms and prohibiting him from buying any new guns.

¹ In addition, courts may issue GVROs for 21 days if law enforcement shows reasonable cause to believe that the person poses an immediate and present danger of personal injury with a gun.