

CALIFORNIA DEPARTMENT OF JUSTICE

TITLE 11. LAW

DIVISION 1. ATTORNEY GENERAL

CHAPTER 12. GUN VIOLENCE RESTRAINING ORDERS

INITIAL STATEMENT OF REASONS

PROBLEM STATEMENT

Assembly Bill (AB) 1602 (Stats. 2016, Ch. 24) established Penal Code section 14230 and codified legislative findings and declarations related to firearm violence, noting that too little was known about firearm violence and prevention. (Pen. Code, § 14230, subd. (e).) As a result, the Legislature established a center for research into firearm-related violence to be administered by the University of California. (Pen. Code, § 14231, subd. (a).)

California also enacted a gun violence restraining order (GVRO) process. (Pen. Code, § 18100 et seq.) GVROs are orders, in writing, signed by the court, prohibiting and enjoining the named person from having in their custody or control, owning, purchasing, possessing, or receiving firearms or ammunition. (Pen. Code, § 18100.) Subsequent to the statutory scheme establishing and governing GVROs, the Legislature adopted Senate Bill (SB) 536 (Stats. 2017, Ch. 810), which enacted Penal Code section 14231.5 to make available GVRO information to the University of California Firearm Violence Research Center, and at the Department of Justice's (Department's) discretion, to any other nonprofit educational institution or public agency immediately concerned with the study and prevention of violence, for academic and policy research purposes.

As a result of Penal Code section 14231.5, in order to safeguard and protect the GVRO data, and to permit the Department to exercise its discretion to make available GVRO information to any other nonprofit educational institution or public agency immediately concerned with the study and prevention of violence, for academic and policy research purposes, the Department must adopt these regulations regarding the eligibility, access, use, and destruction of the GVRO data.

BENEFITS ANTICIPATED FROM REGULATORY ACTION

In 2016, the Legislature established the University of California's Firearm Violence Research Center to conduct research related to firearm violence and its prevention. (AB 1602 (Stats. 2016, Ch. 24).) The Legislature made the following findings, in relevant part: "Too little is known about firearm violence and its prevention. This is in substantial part because too little research has been done." (Pen. Code, § 14230, subd. (e).)

Since GVROs are civil court orders, and to make it clear that the University of California Firearm Violence Research Center had access to GVRO data, the Legislature subsequently enacted Penal code section 14231.5 through SB 536 (Stats. 2017, Ch. 810). Penal Code section 14231.5 also gave the Department discretion to release the GVRO data to any other nonprofit

educational institution or public agency immediately concerned with the study and prevention of violence.

The Department is committed to providing the information for research purposes as authorized under Penal Code section 14231.5, while protecting an individual's privacy rights.

The Department anticipates that these regulations will benefit the privacy, security, and welfare of California residents because by detailing the requirements for access and use, these regulations will ensure that the information is only available to those entitled to it under Penal Code section 14231.5. These regulations would also help to further the Legislature's intent to make GVRO data available to nonprofit educational institutions and public agencies. Specifically, this regulatory action will make available the GVRO information to researchers of nonprofit educational institutions and public agencies immediately concerned with the study and prevention of violence, for academic and policy research purposes.

These regulations would standardize the processes to obtain access to the GVRO data. They would eliminate confusion and ambiguity about eligibility and access to the GVRO data. In addition, the proposed regulatory action will protect Californians' privacy in the GVRO data by ensuring proper protocols and procedures are in place to secure and destroy the information.

SPECIFIC PURPOSE AND NECESSITY OF EACH SECTION

Article 1. Title and Scope

§ 961. Title and Scope.

Subdivision (a) establishes the title of the Chapter and regulations. This subdivision is necessary because it explains that the Chapter governs access to GVRO data maintained by the Department.

Subdivision (b) establishes the scope of the GVRO regulations by describing that this regulation prescribes the processes and procedures to request, receive, secure, store, disseminate, and destroy GVRO information provided by the Department. This subdivision is necessary because it explains the scope of the GVRO regulations.

Article 2. Chapter Definitions

§ 962. Definitions.

This section defines the terms that will be used throughout the Chapter. It is necessary for these terms to be defined because many lend themselves to different interpretations within different contexts. Definitions help establish appropriate scope and applicability. This uniformity assists affected parties in understanding their authority and responsibility with respect to GVRO data.

Subdivision (a) defines "Affiliated" to mean that a person is an employee of a nonprofit educational institution that is immediately concerned with the study and prevention of violence (Nonprofit Educational Institution) or of a state public agency immediately concerned with the

study and prevention of violence (Public Agency), and is not a consultant or independent contractor for a Nonprofit Educational Institution or Public Agency. This definition is necessary to distinguish and limit who is eligible to receive access to GVRO data on behalf of a Nonprofit Educational Institution or Public Agency.

Subdivision (b) defines “Aggregated Data” to mean data that does not include Personal Identifying Information as defined in Penal Code section 530.55, subdivision (b), and is presented in summary counts and full calendar year increments to mitigate privacy risks, and attempts at re-identification. Restrictions on data access are based on the authorizing Penal Code section 14231.5, and the form of the data at issue. For example, Aggregated Data is the only type of GVRO data that may be accessed by entities that are not Nonprofit Educational Institutions or Public Agencies. This definition is necessary to distinguish this type of data from other forms of data and to make clear that this data is only available in full calendar year increments.

Subdivision (c) defines “Bona Fide Research” to mean research that is characterized by the identification, evaluation, or resolution of a problem in a research field; the intent to contribute to the knowledge of a research field; the utilization of scientific methods and research methodologies; and the reasonable expectation that the final research product may support publication in a peer-reviewed journal, program evaluation and quality improvement, or policy development. These regulations establish specific requirements related to access to, and use of, GVRO data by Bona Fide Researchers of Nonprofit Educational Institutions and Public Agencies. This definition is necessary to clearly articulate the type of work that must be performed in order to be classified as Bona Fide Research.

Subdivision (d) defines “Bona Fide Researcher” to mean a researcher, who conducts Bona Fide Research and possesses a Master of Science degree, Master of Arts degree, other master’s degree, or higher level degree in a field that conducts research; is Affiliated with a Nonprofit Educational Institution or Public Agency for Research Purposes; and has research experience at an accredited university or college, research organization, or Public Agency. Penal Code section 14231.5 allows the Department to provide GVRO data to Nonprofit Educational Institutions and Public Agencies for academic and policy research purposes. This definition is therefore necessary to provide specificity around who qualifies for access to GVRO data for statutorily authorized purposes. Further, restrictions on data access are based, in part, on the nature of the requesting party, so it is necessary to assign and describe who qualifies as a researcher at a Nonprofit Educational Institution or Public Agency. The eligibility requirements ensure that the person handling GVRO data has expertise and training on how to use and safeguard research data.

Subdivision (e) defines “CARPOS” to mean the California Restraining and Protective Order System. This definition is necessary for clarity purposes because the California Restraining and Protective Order System is referred to in its acronym form throughout these regulations.

Subdivision (f) defines “Data Request Standard Application” to mean the application developed by the Department’s Research Center to obtain approval to receive GVRO De-Identified Individual-Level Data or Identified Individual-Level Data that includes the information

described in section 966 of these regulations. This definition is necessary for clarity and guidance purposes because it refers to the particular application that is required to obtain access to GVRO data.

Subdivision (g) defines “Department” to mean the Department of Justice of the State of California. This definition is necessary to specify the State agency that is issuing these regulations.

Subdivision (h) defines “De-Identified Individual-Level Data” to mean data, at the individual level, that does not include any Personal Identifying Information. Restrictions on GVRO data access are based on the authorizing Penal Code section 14231.5, and the form of the data at issue. As such, this definition is necessary to distinguish this type of data from other forms of data. This definition is also necessary to clearly explain the type of GVRO data that is available to qualifying entities under Penal Code section 14231.5, and through the process specified in section 966 of these regulations.

Subdivision (i) defines “Entity” to mean any entity or person, that is not a Nonprofit Educational Institution, Public Agency, or Bona Fide Researcher, immediately concerned with the Study and Prevention of Violence, and that is only entitled to receive GVRO Aggregated Data. Penal Code section 14231.5 allows the Department to provide GVRO data to Nonprofit Educational Institutions and Public Agencies, for academic and policy research purposes. This definition is therefore necessary to provide specificity around who qualifies for access to GVRO data for statutorily authorized purposes. Further, restrictions on data access are based, in part, on the nature of the requesting party, and it is thus necessary to assign and describe which persons do not qualify as a Nonprofit Educational Institution or Public Agency, and would therefore, only be able to request GVRO Aggregated Data.

Subdivision (j) defines “GVRO” to mean a gun violence restraining order that is in CARPOS and that has been issued pursuant to Penal Code section 18000 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. This definition is necessary for clarity purposes because Gun Violence Restraining Order is referred to in its acronym form throughout these regulations.

Subdivision (k) defines “Identified Individual-Level Data” to mean data, at the individual level, that includes the Personal Identifying Information of any individual to which that data relates. Restrictions on GVRO data access are based on the authorizing Penal Code section 14231.5, and the form of the data at issue. As such, this definition is necessary to distinguish this type of data from other forms of data. This definition is also necessary to clearly explain the type of GVRO data that is available to qualifying entities under Penal Code section 14231.5, and through the process specified in section 966 of these regulations.

Subdivision (l) defines “Nonprofit Educational Institution” to mean an organization immediately concerned with the Study and Prevention of Violence and that it is exempt from income tax under title 26 United States Code section 501, subdivision (a) or (c)(3), has the primary function

of presenting formal instruction, maintains a regular faculty and curriculum, has regularly enrolled students who attend classes and other educational activities offered by the organization, and is a degree-granting college or university regionally accredited by an accreditation organization approved by the United States Department of Education. Penal Code section 14231.5 allows the Department to provide GVRO data to Nonprofit Educational Institutions, for academic research purposes. This definition is therefore necessary to provide specificity around who qualifies for access to GVRO data for statutorily authorized purposes. Further, restrictions on data access are based, in part, on the nature of the requesting party, and it is thus necessary to assign and describe which educational organizations qualify as a Nonprofit Educational Institution.

Subdivision (m) defines “Personal Identifying Information” as having the meaning set forth in Penal Code section 530.55, subdivision (b). This definition is necessary to define the information that must be protected by those receiving GVRO data. Different levels of eligibility to access GVRO data exist depending on the type of data being requested. Additionally, depending on the type of data being requested, different information and security measures are required for data including Personal Identifying Information. Therefore, it is necessary to distinguish what Personal Identifying Information includes.

Subdivision (n) defines “Peer Review” to mean subjecting a researcher’s scholarly work, research, or ideas to the scrutiny of other researchers in the same field to ensure that the scholarly work meets accepted standards of the researcher’s discipline, and to prevent the dissemination of research that is compromised by unwarranted claims, unacceptable interpretations, or personal views. This definition is necessary to clearly explain what would constitute one of the elements of Bona Fide Research, and thus, how a Bona Fide Researcher qualifies to receive GVRO De-Identified Individual-Level Data and Identified Individual-Level Data.

Subdivision (o) defines “Public Agency” to mean 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. Penal Code section 14231.5 allows the Department to provide GVRO data to Public Agencies, for policy research purposes. This definition is therefore necessary to provide specificity around who qualifies for access to GVRO data for statutorily authorized purposes. Further, restrictions on data access are based, in part, on the nature of the requesting party, so it is necessary to assign and describe which public entities qualify as a Public Agency.

Subdivision (p) defines “Research Center” to mean the Department of Justice Research Center that processes data requests from internal and external requestors. This definition is necessary to clarify the subunit within the Department that will be responsible for disseminating the GVRO data after receiving a proper request through the process specified in sections 965 and 966 of these regulations.

Subdivision (q) defines “Research Purposes” to mean 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. This definition is necessary to clearly

explain what would constitute one of the purposes for which a Bona Fide Researcher qualifies to receive GVRO De-Identified Individual-Level Data and Identified Individual-Level Data.

Subdivision (r) defines “Study and Prevention of Violence” to mean Bona Fide Research into violence that addresses any of the following: the nature of the violence, including individual and societal determinants of risk for involvement in violence, whether as a victim or a perpetrator; the individual, community, and societal consequences of violence; prevention and treatment of violence at the individual, community, and societal level; and 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. Penal Code section 14231.5 allows the Department to provide GVRO data to Nonprofit Educational Institutions and Public Agencies for academic and policy research purposes. This definition is therefore necessary to provide specificity regarding who qualifies for access to GVRO data for statutorily authorized purposes. Further, restrictions on data access are based, in part, on the nature of the requesting party, so it is necessary to assign and describe which entities qualify as a Nonprofit Educational Institution or Public Agency. This definition incorporates the legislative intent language in Penal Code section 14231, subdivision (a).

Subdivision (s) defines “Team Member” to mean 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. Penal Code section 14231.5 allows the Department to provide GVRO data to Nonprofit Educational Institutions and Public Agencies, for academic and policy research purposes. This definition is therefore necessary to provide specificity around who qualifies for access to GVRO data for statutorily authorized purposes. Further, restrictions on data access are based, in part, on the nature of the requesting party, so it is necessary to assign and describe who qualifies for what data access.

Article 3. Access and Use

§ 963. Eligibility for Access to Data.

The purpose of this section is to set forth the restrictions on who has access to GVRO data and the types of GVRO data. These subdivisions are necessary because, together with the provisions related to restrictions on the use and disclosure of GVRO data, the process for requesting GVRO data, and destruction of GVRO data, they protect the privacy of those California residents whose Personal Identifying Information is contained with the GVRO data by specifying who has access to GVRO data and the types of GVRO data.

Subdivision (a) permits a Bona Fide Researcher from a Nonprofit Educational Institution or Public Agency to obtain GVRO Aggregated Data, De-Identified Individual-Level Data, and Identified Individual-Level Data. This subdivision is necessary to clarify the types of data that Penal Code section 14231.5 has authorized access to and that the Department has determined is appropriate for each type of data request. Among other qualifications, a Bona Fide Researcher conducts Bona Fide Research and is employed by a Nonprofit Educational Institution or Public Agency. It is therefore necessary to allow a Bona Fide Researcher to obtain all available types of

GVRO data. To further protect privacy interests, these regulations limit when a Bona Fide Researcher may obtain Identified Individual-Level Data.

Subdivision (b) permits entities that are not Nonprofit Educational Institutions or Public Agencies to obtain GVRO Aggregated Data only. This subdivision is necessary to limit the scope of GVRO data available to entities that do not qualify as a Nonprofit Educational Institution or Public Agency. The Department has discretion to provide GVRO Aggregated Data for research purposes to entities that are not Nonprofit Educational Institutions or Public Agencies under Civil Code section 1798.24, subdivision (h).

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

The purpose of this section is to set forth the restrictions on the use and disclosure of GVRO data. These subdivisions are necessary because, together with the provisions related to eligibility for access to data, the process for requesting GVRO data, and destruction of GVRO data, they protect the privacy of those California residents whose Personal Identifying Information is contained in the GVRO data by narrowing the scope of, and conditions for, the use and disclosure of GVRO data.

Subdivision (a) limits the use of GVRO data to the uses specified in the Data Request Standard Application. This subdivision is necessary because Penal Code section 14231.5 allows the Department to release GVRO data only to Nonprofit Educational Institutions and Public Agencies, for academic and policy research purposes. It is further necessary because releasing data to applicants who do not meet the eligibility criteria, or for purposes that do not meet the research criteria would pose an unnecessary risk to the privacy of those individuals whose Personal Identifying Information is contained in the GVRO data. This subdivision is also necessary because it ensures that GVRO data is not used for improper purposes.

Subdivision (b) prohibits access to GVRO data if it is outside of the timeframe defined in the Data Request Standard Application. This subdivision is necessary because it protects the privacy of an Individual's Personal Identifying Information in GVRO data by ensuring the data is only used for those statutorily authorized purposes and within the timeframe of the project for which it was requested.

Subdivision (c) requires the Research Center's written approval, and statutory authority or court order, before a Nonprofit Educational Institution, Public Agency, Bona Fide Researcher, or Team Member may transfer, disclose, or disseminate GVRO data to a third party. This subdivision is necessary to place limitations on the transfer, disclosure, and dissemination of the GVRO data. These limitations protect the privacy of the individuals whose Personal Identifying Information is contained in the GVRO data, and give the Department the opportunity to confirm that the GVRO data is being used only for the purposes for which it was requested and only by persons authorized to access the data.

Subdivision (d) prohibits a Nonprofit Educational Institution, Public Agency, Bona Fide Researcher, or Team Member from disclosing or disseminating any GVRO data or documents that identify any individual, except to the Research Center, or if approved in writing by the

Research Center. This subdivision is necessary to protect the privacy of an individual's Personal Identifying Information in the GVRO data by placing limitations on the use, disclosure, and dissemination of GVRO data.

Subdivision (e) prohibits a Nonprofit Educational Institution, Public Agency, Bona Fide Researcher, or Team Member from publishing, disseminating, disclosing, or releasing data and information that would identify an individual. This subdivision requires that a Nonprofit Educational Institution, Public Agency, Bona Fide Researcher, or Team Member must aggregate the data before it is published to ensure that it does not create a risk of identifying an individual. This subdivision is necessary to protect the privacy of an individual's Personal Identifying Information in the GVRO data.

Subdivision (f) prohibits a Nonprofit Educational Institution, Public Agency, Bona Fide Researcher, or Team Member from publishing, disseminating, disclosing, or releasing 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. In addition to subdivision (d) above, this subdivision places a further standard of a "reasonable possibility" of directly or indirectly identifying individuals to restrict the publication, dissemination, disclosure, or release of GVRO data or documents. This subdivision is necessary to protect the privacy of an individual's Personal Identifying Information in the GVRO data by placing limitations on the publication, dissemination, disclosure, or release of the information.

Subdivision (g) clarifies the types of information that could lead to direct or indirect identification of an individual. Subdivision (g)(1) provides the direct identifiers that are unique to an individual in the GVRO database. Subdivision (g)(2) provides the indirect identifiers that are not unique to an individual in the GVRO database but can be used in combination with other information about that individual to identify them. In accordance with best practices and recommendations designed to avoid the disclosure of information that can indirectly identify an individual, subdivision (g)(2) describes the minimum number of individuals in certain categories (see Statewide Longitudinal Data Systems (SLDS) Technical Brief 3: Statistical Methods for Protecting Personally Identifiable Information in Aggregate Reporting (NCES 2011-603)) that may be used for disclosure purposes. This subdivision is necessary to protect the privacy of an individual's Personal Identifying Information in the GVRO data.

Subdivision (h) requires a Bona Fide Researcher to provide to the Department, for review and comment, a complete draft of any report, evaluation, or other document, at least 10 business days in advance of any publication or dissemination. This subdivision is necessary to protect the privacy of an individual's Personal Identifying Information in the GVRO data by giving the Department the opportunity and sufficient time to confirm that GVRO data is only used for the purposes it was requested, that no Personal Identifying Information will be published, and that there is no reasonable possibility that the publication will directly or indirectly identify an individual.

Subdivision (i) specifies that the Department has the authority to prohibit a publication, dissemination, disclosure, or release of GVRO data or analyses if the Department determines that

the publication, dissemination, disclosure, or release could compromise the identity of any individual. This subdivision is necessary to protect the privacy of an individual whose Personal Identifying Information is contained in the GVRO data.

Subdivision (j) prohibits the sale of any GVRO data. This subdivision is necessary because the sale of GVRO data is an activity that is not authorized by Penal Code section 14231.5, which only allows the use of GVRO data for academic and policy research purposes.

Subdivision (k) requires a court order to disclose or transfer GVRO data in a legal proceeding or in response to a subpoena, and that immediate notice must be given to the Research Center when such a request is made. This subdivision is necessary to protect the privacy of the individuals whose Personal Identifying Information is contained in GVRO data, to ensure proper safeguards are in place to limit the disclosure or transfer of the information.

Subdivision (l) requires the protection of GVRO data, system security, and limitation of access to individuals identified in the Data Request Standard Application. Additionally, this subdivision requires in the event of a security breach that the Nonprofit Educational Institution, Public Agency, Bona Fide Researcher, and Team Member provide immediate notice to the Research Center, submit a notification letter to the Department for publication on the Department's website when the breach affects the Personal Identifying Information of 500 individuals or more, and reimburse the Department for any losses or expenses resulting from the security breach. This subdivision is necessary to protect the privacy of individuals whose Personal Identifying Information is contained in GVRO data and minimize the dissemination of Personal Identifying Information of individuals in the event of a security breach.

Subdivision (m) requires that notice be given to the Department when the project described in the Data Request Standard Application has been completed, and clarifies that the restrictions in these regulations still apply after project completion. This subdivision is necessary because it protects the privacy of the individuals whose Personal Identifying Information is in the GVRO data by ensuring that the GVRO data is not used for an unauthorized purpose after a project has ended.

Subdivision (n) limits a Team Member's use of GVRO data to accessing or analyzing data obtained by a Bona Fide Researcher. This subdivision is necessary because it protects the privacy of the individuals whose Personal Identifying Information is in the GVRO data by ensuring that the GVRO data is not misused by a Team Member, and that the Team Member is limited only to accessing or analyzing the data that the Bona Fide Researcher was statutorily authorized to receive.

§ 965. Procedures for Requesting GVRO Aggregated Data.

The purpose of this section is to set forth the procedures that must be followed when requesting GVRO Aggregated Data. This section is necessary because the Department receives many requests for data, including GVRO Aggregated Data, and this section will help eliminate confusion as to what information must be included and how to submit the request.

Subdivision (a) requires a Bona Fide Researcher or Entity requesting GVRO Aggregated Data to electronically submit the request to the Research Center by following the public records request process on the Attorney General's website. This subdivision is necessary to provide guidance on how and to whom a request for GVRO Aggregated Data may be submitted.

Subdivision (b) requires Bona Fide Researchers or Entities to specify the complete calendar year or years for which GVRO Aggregated Data is being requested. This subdivision is necessary because it provides the information necessary for the Research Center to fulfill the request.

Subdivision (c) specifies that, upon approval, the Department will securely transfer the requested Aggregated Data. This subdivision is necessary to inform Bona Fide Researchers and Entities when and how Aggregated Data will be received.

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

The purpose of this section is to set forth the procedures for requesting either GVRO De-Identified Individual-Level Data or Identified Individual-Level Data.

Subdivision (a) requires a Bona Fide Researcher to electronically submit a Data Request Standard Application to obtain any disaggregated GVRO data. This subdivision is necessary to provide guidance on how and to whom a request for GVRO De-Identified Individual-Level Data or Identified Individual-Level Data may be submitted. Further, it is necessary for a Data Request Standard Application to be submitted to obtain any disaggregated data because De-Identified Individual-Level Data and Identified Individual-Level Data both contain data at the Individual level and it is therefore necessary to have additional safeguards in place by requiring Bona Fide Researchers to provide more information about the project and the persons involved.

Subdivision (b) establishes the application information that must be furnished by a Bona Fide Researcher in order to determine whether GVRO De-Identified Individual-Level Data Identified Individual-Level Data will be released. This subdivision is necessary because it provides clarity to the Data Request Standard Application and sets clear guidelines for a Bona Fide Researcher to follow if they wish to access GVRO data.

Subdivision (b)(1) requires the applicant to specify whether the request is new or a modification of an earlier request, and if a modified request, the project number for the request. This subdivision is necessary because the Department receives many requests for data, including GVRO data, and this subdivision will help eliminate confusion as to what information must be included and how to track an existing request.

Subdivisions (b)(2), (b)(3), (b)(4), (b)(5), (b)(6) and (b)(11) require an applicant to include the date, as well as the applicant's name, position title, address, phone number, email address, employer, and signature. These subdivisions are necessary because the Department must verify that the applicant meets the eligibility requirements for access to GVRO De-Identified Individual-Level Data or Identified Individual-Level Data and has determined that this information is necessary for that validation.

Subdivision (b)(7) requires the applicant to include contact information for their employer's information security officer or information technology manager. This subdivision is necessary because it provides the Department with a point of contact in the case that there is a data breach affecting GVRO data.

Subdivisions (b)(8) and (b)(9) require the applicant to include the project title and date of anticipated completion of the project or report. These subdivisions are necessary because the Department must verify that the applicant meets the eligibility requirements for access to GVRO De-Identified Individual-Level Data or Identified Individual-Level Data and has determined that this information is necessary for that validation to ensure that the requirements of Penal Code section 14231.5 are met. This subdivision also ensures that the GVRO data will not be used for an indefinite period of time, which decreases the risk of unauthorized disclosure.

Subdivision (b)(10) requires the applicant to include the names of Team Members who will have access to the GVRO data, where those Team Members will access the GVRO data, and the job duties of those Team Members. This subdivision is necessary because it further ensures the privacy and confidentiality of Personal Identifying Information in the GVRO data. Presumably, any or all of the Team Members will have access to the GVRO De-Identified Individual-Level Data or Identified Individual-Level Data, so it is necessary for the Department to be aware of everyone with access to this data.

Subdivision (b)(12) requires the applicant to include a checklist when requesting GVRO De-Identified Individual-Level Data or Identified Individual-Level Data. This subdivision is necessary to ensure that the GVRO De-Identified Individual-Level Data or Identified Individual-Level Data will be used for the statutorily authorized purposes of Penal Code section 14231.5. The checklist must contain: (1) a detailed project outline, including funding source and methodology (2) a curriculum vitae, (3) a signed acknowledgment of the restrictions in section 964, (4) a signed document describing the protocols that will be used to safeguard GVRO data from unauthorized access (5) relevant research materials, and (6) a copy of the institutional review board approval and related documentation. This subdivision is necessary to ensure the authenticity, viability, and validity of the research project, and to ensure the applicant has all required employer approvals to conduct the research.

Subdivision (c) requires the applicant requesting GVRO De-Identified Individual-Level Data or Identified Individual-Level Data to submit written verification to the Department of formal approval of the project by the applicant's Institutional Review Board for research projects conducted by a Nonprofit Educational Institution, or by the Committee for the Protection of Human Subjects for research projects conducted by a Public Agency. This subdivision is necessary because the projects requiring access to GVRO data involve human subjects, and approval by the Institutional Review Board or Committee of the Protection of Human Subjects would provide additional security and safeguards for the privacy and confidentiality of Personal Identifying Information in GVRO data.

Subdivision (d) requires a Bona Fide Researcher to submit written verification by an authorized official on official letterhead, verifying that the Bona Fide Researcher and all Team Members are

Affiliated with the applicant Nonprofit Educational Institution or Public Agency. This subdivision is necessary to verify the identities of the persons who will have access to GVRO De-Identified Individual-Level Data or Identified Individual-Level Data, and their qualifying affiliation with an eligible applicant.

Subdivision (e) describes the process for renewing an application. The project renewal request must update the application within 90 calendar days before the expiration date of the application by describing any changes to the following information: (1) the Bona Fide Researcher and Team Members, (2) the details of the project, (3) the technology infrastructure used to conduct the research, (4) the location of the GVRO data and where it is stored or accessed, (5) the security protocols used to prevent unauthorized access to the GVRO data, and (6) the institutional review board approval and related documentation. The Department provided a 90-day timeframe to renew the application to allow the requestor sufficient time to gather the data necessary to request a renewal. This subdivision is necessary to establish an application renewal process to accommodate project delays caused by unforeseen events. This subdivision is also necessary because it is vital for the Department to have up-to-date information in order to ensure the continued security of the GVRO data.

Article 4. Destruction of Data

§ 967. Procedures for Destruction of GVRO Data.

This section describes the requirements for destruction of GVRO data when a Bona Fide Researcher has concluded a research project or report, in accordance with the restrictions on use or disclosure of GVRO data. The Bona Fide Researcher must submit a written certification of destruction when they have completed a research project or report. This is necessary in order to ensure that GVRO data is used solely for the purposes for which it was approved and is destroyed after that purpose is achieved. Failure to ensure appropriate destruction of GVRO data could pose an unnecessary risk to the privacy of those individuals whose Personal Identifying Information is in the GVRO data. This section incorporates by reference National Institute of Standards and Technology (NIST) Special Publication 800-88, Revision 1, Guidelines for Media Sanitization, December 2014. The Department chose this guideline because it is a widely used data sanitization standard that the Department applies in other programs.

Article 5. Enforcement of Regulations

§ 968. Enforcement of Regulations by the Department.

This section describes the consequences if a requestor of GVRO data fails to comply with Department regulations. To protect the privacy of those individuals whose Personal Identifying Information is in the GVRO data, the Department may inspect facilities, audit records, restrict access to GVRO data and deny future requests for GVRO data. This provision is necessary to discourage requestors from violating individual privacy rights.

ECONOMIC IMPACT ASSESSMENT/ANALYSIS

The Department concludes:

- (1) It is unlikely that the proposal would create or eliminate jobs within the state because it only applies to nonprofit educational institutions and public agencies immediately concerned with the study and prevention of violence, and other entities who seek access to GVRO data.
- (2) It is unlikely that the proposal would create new businesses or eliminate existing businesses within the state because it only applies to nonprofit educational institutions and public agencies immediately concerned with the study and prevention of violence, and other entities seeking access to GVRO data.
- (3) It is unlikely that the proposal would result in the expansion of businesses currently doing business within the state because it only applies to nonprofit educational institutions and public agencies immediately concerned with the study and prevention of violence and other entities entitled seeking access to GVRO data.

The Department also concludes that:

- (1) The proposal would benefit the health and welfare of California residents because by detailing the requirements for access and use of GVRO data, these regulations will ensure that the information is only available to authorized persons for authorized research purposes. Additionally, these regulations establish procedures to safeguard GVRO data.
- (2) The proposal would not benefit worker safety because these regulations only describe the process and requirements to make available GVRO data to researchers of nonprofit educational institutions and public agencies immediately concerned with the study and prevention of violence, for academic and policy research purposes, and to clarify the requirements for eligibility to GVRO data, access to GVRO data, destruction of the GVRO data, and the requirements regarding other entities who seek access to GVRO data.
- (3) The proposal would not have a discernible benefit on the state's environment because these regulations only describe the process and requirements to make available GVRO data to researchers of nonprofit educational institutions and public agencies immediately concerned with the study and prevention of violence, for academic and policy research purposes and to clarify the requirements for eligibility to GVRO data, access to GVRO data, destruction of the GVRO data, and the requirements regarding other entities seeking access to GVRO data. However, these regulations do prescribe electronic submission for the Data Request Standard Application or request for data, which benefits the environment by reducing the use of paper.

TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDIES, REPORTS OR SIMILAR DOCUMENTS RELIED UPON

SLDS Technical Brief 3: Statistical Methods for Protecting Personally Identifiable Information in Aggregate Reporting (NCES 2011-603): <https://nces.ed.gov/pubs2011/2011603.pdf>

EVIDENCE SUPPORTING DETERMINATION OF NO SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESS

The Department has made an initial determination that the proposed action would not have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

This determination is based on the fact that these regulations only describe the process and requirements to make available the GVRO data to researchers of nonprofit educational institutions and public agencies immediately concerned with the study and prevention of violence, for academic and policy research purposes and to clarify the requirements for eligibility to GVRO data, access to GVRO data, destruction of the GVRO data, and the requirements regarding other entities seeking access to GVRO data.

REASONABLE ALTERNATIVES TO THE PROPOSED REGULATORY ACTION THAT WOULD LESSEN ANY ADVERSE IMPACT ON SMALL BUSINESS

The Department finds that no reasonable alternatives were presented to, or considered by, the Department that would lessen any adverse impact on small business.

REASONABLE ALTERNATIVES TO THE PROPOSED ACTION AND THE AGENCY'S REASON FOR REJECTING THOSE ALTERNATIVES

The Department finds that no alternatives were presented to, or considered by, the Department that would be more effective in carrying out the purpose of the proposed regulation or would be as effective and less burdensome to affected private persons than the proposed regulation.

Performance Standard as Alternative:

The Department made every effort to consider performance standards where possible and the areas where specific actions are prescribed are necessary to ensure the security of the GVRO data.