



Firearm Regulations:

**The City Should Update Procedures Around Gun Violence Restraining Orders
and Firearm Business Inspections**

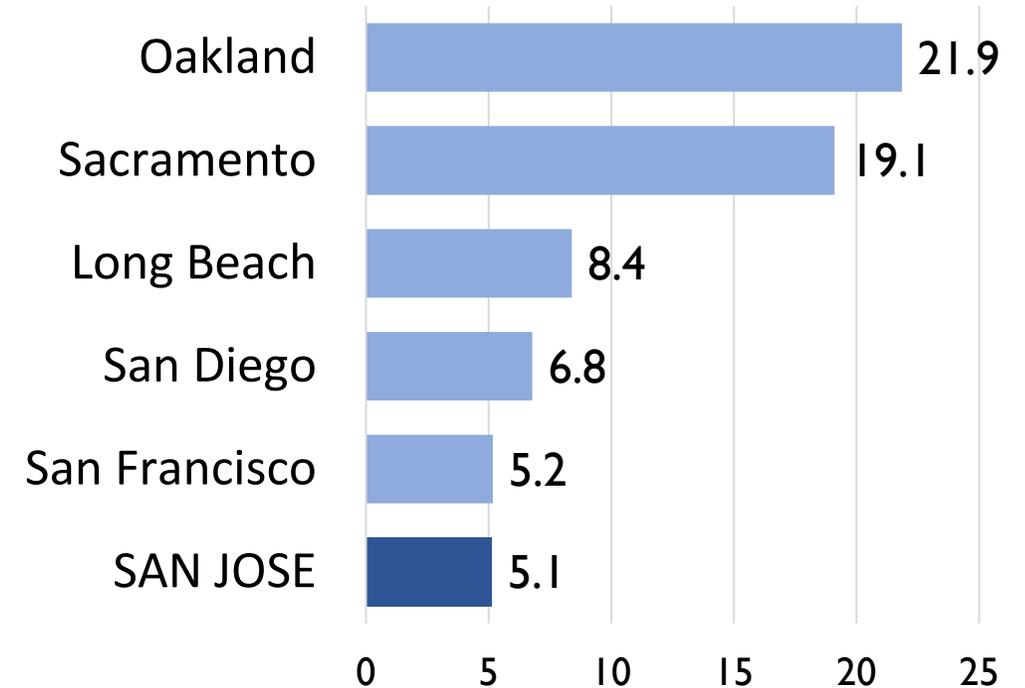
A Report from the City Auditor
Issued December 2022

<http://www.sanjoseca.gov/auditor>

Background

- There were 13.6 firearm-related deaths per 100,000 residents across the country. In San Jose, the rate was 5.1 deaths per 100,000.
- Federal, state, and local laws regulate the possession, ownership, use, and sale of firearms.
- SJPD is responsible for enforcing firearm-related regulations in San Jose.

Exhibit: The City Had a Lower Firearm Death Rate per 100,000 Residents in 2020 Than Other Jurisdictions

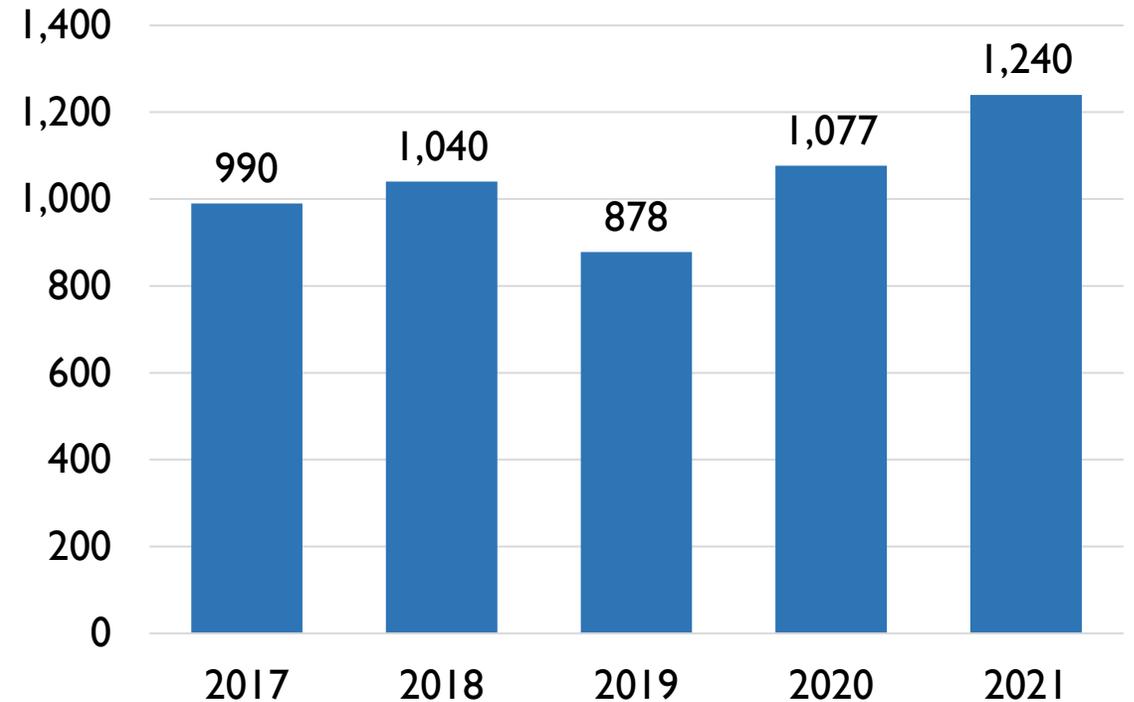


Source: California Department of Public Health, California Comprehensive Master Death File, 2020.

Finding I: Firearm-Related Incidents Have Increased in the City

- From 2017-2021, firearm-related incidents in San José increased by 25 percent
- Certain police districts have seen higher concentrations of firearm-related incidents than others.

Exhibit: Firearm-Related Incidents in the City Have Grown

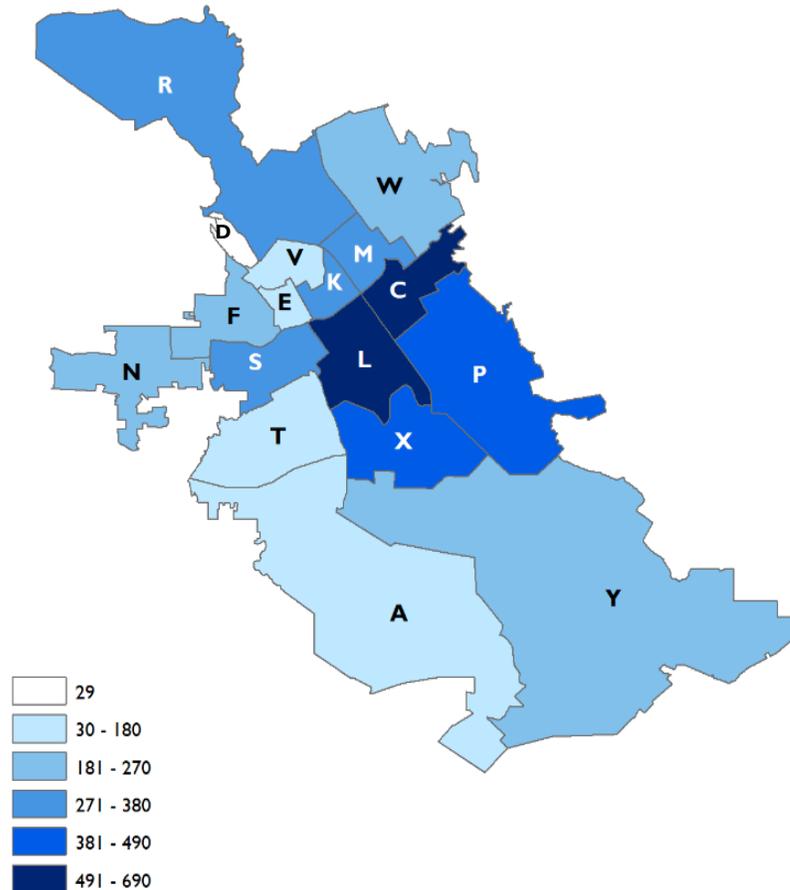


Source: Auditor analysis of data from the SJPD records management system.

Finding I: Cont'd

Exhibit: The Number of Firearm-Related Incidents Vary by Police District (2017-2021)

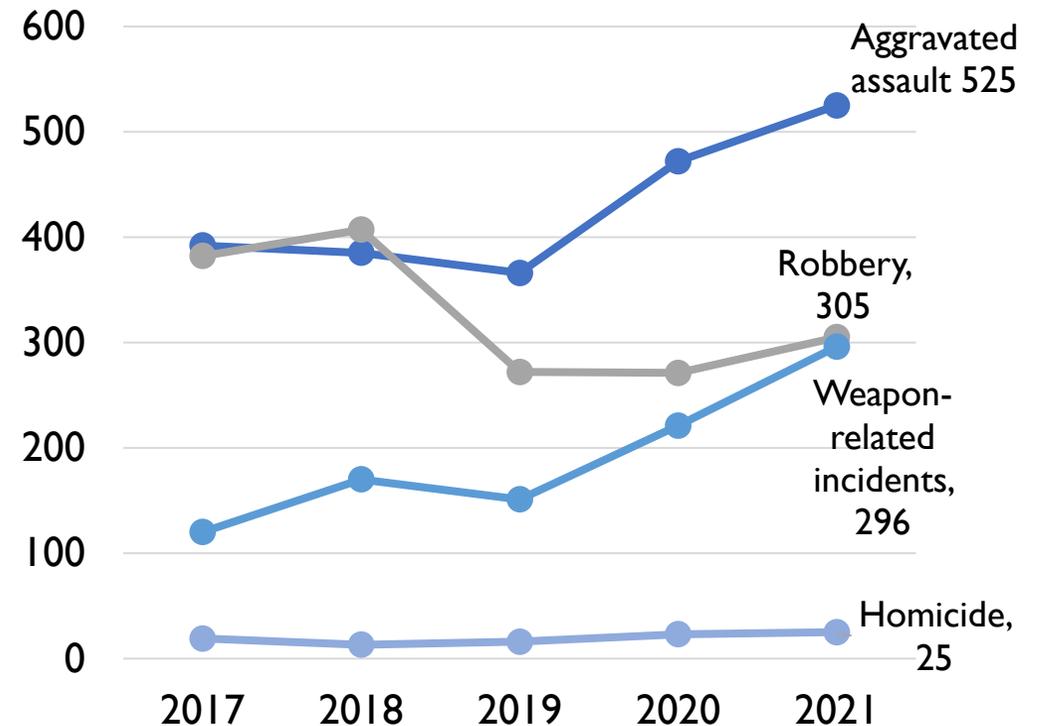
- Over 40 percent of firearm-related incidents between 2017 and 2021 were in districts L, C, X, and P in central and east San José.
- Districts V, T, A, and E saw the fewest incidents over the same period.



Finding I: Cont'd

Exhibit: Top Four Crimes with the Most Firearm-Related Incidents, 2017-2021

- Aggravated assault and robbery were the most common firearm-related crime.
- The City has seen a significant increase in privately made firearms (sometimes referred to as “ghost guns”).



Source: Auditor analysis of data from the SJPD records management system.

Finding 2: State Law Is the Primary Authority Regulating Firearms in the City

- The Municipal Code provides additional regulations regarding licensing firearm dealers, and other requirements on owning, possessing, or storing a firearm.
- Currently, two sections of the San José Municipal Code conflict with the California Penal Code governing firearm sales.

RECOMMENDATIONS:

To better align with state law, the Administration should:

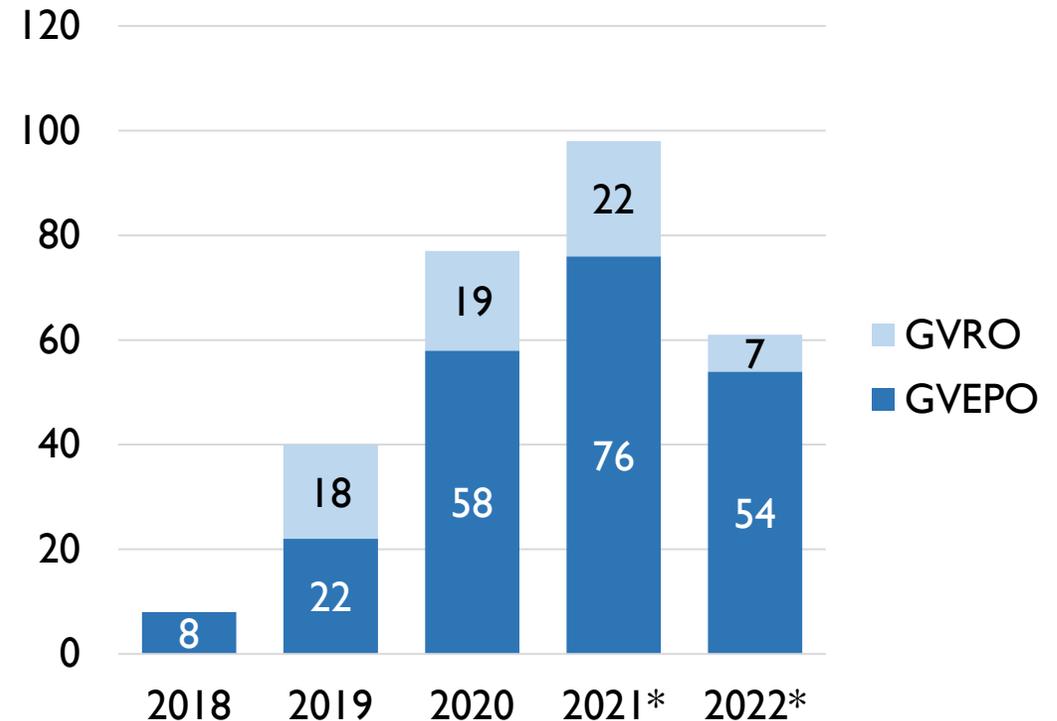
- Update Municipal Code sections related to age requirements and waiting periods for firearm purchases, and suicide prevention noticing.



Finding 3: The Police Department Should Update Internal Procedures and Conduct Outreach on Gun Violence Restraining Orders

- Gun Violence Restraining Orders (GVROs) provide tools for law enforcement to remove firearms from a person who is at risk of causing harm to themselves or others.
- Since 2018, the City has filed over 280 orders.

Exhibit: Number of GVEPOs and GVROs in San José, 2018 Through July 2022



Source: Auditor analysis from information provided by SJPD Warrants Unit and the City Attorney's Office.

*There are cases pending from 2021 and 2022.

Finding 3: Cont'd

- SJPD's Duty Manual does not reflect the actual current process and should be updated to differentiate the processes for the different orders.
- The City can better inform the public about gun violence restraining orders

RECOMMENDATIONS

SJPD should:

- Update language in the Duty Manual to reflect the different types of GVROs and develop procedures on the current process of each.
- Incorporate information about GVROs into its community outreach efforts, including posting information on the City's website.

Finding 4: The Police Department Can Provide Increased Staff Guidance and Supervisory Oversight for Regulating Firearm Businesses

- SJPD's Permits Unit regulates firearm businesses for compliance with Municipal Code requirements.
- Inspections do not always adequately document compliance and draft procedures do not provide sufficient guidance.
- The permit fees for the businesses may not be fully cost recovery.

RECOMMENDATIONS

To improve the inspection process, SJPD should:

- Develop procedures to document inspection expectations and revise its inspection checklist.
- Reassess actual time spent on inspections.

Conclusion

This report has seven recommendations to improve the City's processes to regulate firearms.

We would like to thank the San José Police Department. We also thank the City Attorney's Office and the City Manager's Budget Office.

The audit report is available at www.sanjoseca.gov/auditor

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