

Extreme Risk Protection Orders

PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for petitioning for and serving extreme risk protection orders and accounting for firearms and concealed pistol licenses obtained pursuant to those orders.

DEFINITIONS

Definitions related to this policy include (MCL 691.1803):

Extreme risk protection order - An order prohibiting a named person from possessing prohibited items.

Petition - A summons and complaint filed with the court consistent with MCL 691.1805.

Prohibited items - Firearms and concealed pistol licenses that are prohibited by an extreme risk protection order.

POLICY

It is the policy of the Department to petition for and serve extreme risk protection orders in compliance with this policy and state law, and to properly account for prohibited items obtained by the Department pursuant to such orders.

EXTREME RISK PROTECTION ORDER COORDINATOR

The Chief of Police should act as or designate an extreme risk protection order coordinator. The responsibilities of the coordinator include:

- (a) Developing and maintaining procedures for the filing of a petition for an order or a renewal of an order by department members.
 1. Procedures should include criteria and other requirements related to making a verbal request by phone for an order and filing a subsequent written petition (MCL 691.1807).
- (b) Identifying factors to consider when assessing whether to seek an order, including:
 1. Whether threats have been made, and if so, whether the threats are credible and specific.
 2. Whether the potential victim is within close proximity.
 3. Whether the person has expressed suicidal tendencies.
 4. Whether the person has access to firearms.
 5. Whether the person has committed an act of violence toward themselves or another person.

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6. The criminal history of the person, in particular any history of criminal violence, including whether the person is currently on parole, probation, or monitored release.
 7. The mental health history of the person, in particular whether the person has any history of mental illness or has ever been detained for being a danger to themselves or others.
 8. Any known upcoming holidays, anniversaries, or other dates of significance that may serve as a trigger for the person, such as the death of a family member.
 9. Whether the person has any history of drug or alcohol abuse.
- (c) Developing and maintaining procedures for the receipt and service of orders. Procedures should include:
1. Evaluation of an order to determine appropriate service and necessary precautions.
 2. Forwarding orders to the operations director or the authorized designee.
 3. Recording in appropriate databases and required notice to the court, as applicable.
 4. Preparing or obtaining a search warrant prior to attempting service of an order, when appropriate.
 5. Any additional state requirements for receipt and service of orders as required by MCL 691.1813 and MCL 691.1815.
- (d) Coordinating with officers who may be involved in petitioning for or serving orders with training on such orders. Training should include determining when a petition is appropriate, the process for seeking an order, and the service of such orders.
- (e) Reviewing each petition and any associated court documents for an order prepared by members, for compliance with this policy, department procedures, and state law.
- (f) Reviewing any affidavits alleging that a person who is the subject of an extreme risk protection order is in possession or control of a firearm or a concealed pistol license in violation of the order (MCL 691.1810).
- (g) Developing and maintaining procedures for members to accept voluntarily surrendered prohibited items at times other than when an order is being served by the Department.
1. Procedures should include preparing and providing a receipt identifying all prohibited items to the person surrendering the items.

EXTREME RISK PROTECTION ORDERS

An officer who reasonably believes that an extreme risk protection order is appropriate should obtain approval from an appropriate supervisor and the extreme risk protection order coordinator or the authorized designee prior to seeking an order.

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STANDARDS

Extreme risk protection orders may be appropriate if a person can reasonably be expected within the near future to intentionally or unintentionally seriously physically injure themselves or another person by possessing a firearm, and has engaged in an act or acts or made significant threats that are substantially supportive of the expectation (MCL 691.1807(1)).

An emergency extreme risk protection order, issued without written or oral notice to the person who is the subject of the order, may be appropriate if an officer is responding to a complaint involving the person and the person can reasonably be expected within the near future to intentionally or unintentionally seriously physically injure themselves or another person by possessing a firearm (MCL 691.1807(4)).

REQUIREMENTS OF PETITION

A petition for an extreme risk protection order should be prepared, filed, and served consistent with state law and the procedures developed by the extreme risk protection order coordinator (MCL 691.1805).

SERVICE OF ORDERS

If a court has ordered the immediate surrender of a person's firearms, officers shall personally serve a copy of an extreme risk protection order (along with any accompanying notice of hearing and petition) on the person named in the order or orally advise the person named in the order of the existence of the order (along with any accompanying information such as penalties for violating the order, specific conduct the respondent is ordered to stop doing, location of where to get a copy of the order) as soon as reasonably practicable.

Service of orders should take precedence over the service of other orders, except for orders of a similar emergency nature.

ADDITIONAL SERVICE REQUIREMENTS

If an officer provides oral notice of the order, the officer shall file proof of service with the court consistent with department procedures (MCL 691.1813).

SAFETY CONSIDERATIONS

Upon receipt of an extreme risk protection order, the Chief or the authorized designee should evaluate the circumstances of the order and consider what precautions are appropriate for service of the protection order.

At least two officers should be present when an order is being served.

SURRENDER OF PROHIBITED ITEMS

Officers serving an extreme risk protection order should request that the named person immediately surrender all prohibited items as required by the order. Officers shall take custody of any items surrendered pursuant to the order (MCL 691.1815).

The officer serving the order should prepare a tabulation identifying all surrendered items, and a copy of the tabulation should be given to the person (MCL 691.1815). The officers should ensure the original tabulation is included in the original case report.

All items collected should be handled and booked with the assistance from the Lieutenant.

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SEARCH WARRANTS

If an extreme risk protection order does not include a search warrant, officers should consider whether a search warrant may be reasonably necessary prior to attempting service of an order.

Officers should also consider whether to seek a search warrant if the named person refuses to surrender any prohibited items or if an officer serving an extreme risk protection order reasonably believes there are prohibited items within the persons custody, control, or possession that have not been surrendered (MCL 691.1810).

RELEASE OF PROHIBITED ITEMS

Any person requesting the release of any prohibited items in department custody pursuant to an extreme risk protection order should be referred to the Lieutenant.

RENEWAL OF EXTREME PROTECTION ORDER

The Chief or designee is responsible for the review of any extreme risk protection order obtained by the Department to determine if renewal or extension of the order should be requested (MCL 691.1817).