

## Extreme Risk Protective Orders

### 341.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for petitioning for and serving extreme risk protective orders and accounting for firearms and ammunition obtained pursuant to those orders.

#### 341.1.1 DEFINITIONS

Definitions related to this policy include:

**Ammunition** – A cartridge, shell, or other device containing explosive or incendiary material designed and intended for use in a firearm.

**Extreme risk protective order** - An order prohibiting a named person from having in his/her custody or control or purchasing a firearm or ammunition, as applicable (Md. Code PS § 5–601 et seq.).

**Final Extreme Risk Protective Order** – After a hearing on a petition for the issuance of a Final Extreme Risk Protective Order, an order may be issued by the District Court Judge requiring the respondent to surrender to law enforcement any firearm(s) or ammunition in their possession; and prohibits the respondent from purchasing or possessing any firearm(s) or ammunition for the duration of the order. A Final Extreme Risk Protective Order shall be valid for a period stated in the order not to exceed one year unless superseded by a Circuit Court Judge's order or the order is modified, rescinded, or for good cause shown, extended for six (6) months beyond the period specified.

**Firearm** – A weapon that expels, is designed to expel, or may readily be converted to expel a projectile by the action of an explosive; or the frame or receiver of such a weapon. Firearms include handguns, rifles, shotguns, and starter guns.

**Interim Extreme Risk Protective Order** – When the District Court is closed, the petitioner can file a petition with the District Court Commissioner for an order and they have the authority to issue an Interim Extreme Risk Protective Order. The Interim Extreme Risk Protective Order requires the respondent to surrender to law enforcement any firearm(s) and ammunition in their possession; and prohibits them from purchasing or possessing any firearm(s) or ammunition for the duration of the Interim order. An Interim Extreme Risk Protective Order may include a referral from the District Court Commissioner to law enforcement for a determination of whether the respondent should be taken for an emergency mental health evaluation. An Interim Extreme Risk Protective Order shall be effective until a temporary hearing which should be held the second business day the office of the District Court clerk is open following the issuance of the Interim Extreme Risk Protective Order.

**Petitioner** – An individual who files a petition for an Interim, Temporary or Final ERPO. A petitioner may be any of the following:

- (a) Physician, psychologist, clinical social worker, licensed clinical professional counselor, clinical nurse specialist in psychiatric and mental health nursing, psychiatric nurse

### *Extreme Risk Protective Orders*

---

practitioner, licensed clinical marriage or family therapist, or designee of a health officer who has examined the individual.

- (b) A law enforcement officer.
- (c) The spouse of the respondent.
- (d) A cohabitant of the respondent.
- (e) A person related to the respondent by blood, marriage, or adoption.
- (f) An individual who has a child in common with the respondent.
- (g) A current dating or intimate partner of the respondent.
- (h) A current or former legal guardian of the respondent.

**Reasonable Grounds** – Where there is a preponderance of the evidence to support the belief the respondent poses an immediate and present danger of causing personal injury to the respondent, the petitioner, or another individual by possessing a firearm.

**Respondent** – A person against whom a petition for an ERPO is filed.

**Possessing a Firearm and Ammunition** – Where the respondent has firearm(s) and/or ammunition within his/her control, this includes those firearms and ammunition where the respondent has access to or is within his/her easy reach. Possession also includes firearms and ammunition in other locations inside and outside of the respondent's residence and where they may not be the owner of the property, but the circumstances show they have reasonable control or possessory interest over the firearms and/or ammunition.

**Petition for Emergency Evaluation** – Where the officer has received information from a reliable source or personally observed an individual or the individual's behavior, and the officer has reason to believe they have a mental disorder and present a danger to the life or safety of themselves or others, the officer may file a petition with the treating facility for an emergency evaluation.

**Temporary Extreme Risk Protective Order** – When the District Court is open, a petitioner can file a petition with the court for the issuance of an Extreme Risk Protective Order. A hearing will be held and, if the Temporary Extreme Risk Protective Order is issued by a District Court Judge, it requires the respondent to surrender to law enforcement any firearm(s) and ammunition in their possession; and prohibits them from purchasing or possessing any firearm(s) or ammunition for the duration of the Temporary order. A Temporary Extreme Risk Protective Order shall be effective for not more than seven (7) days after service unless extended by the judge. In the event the order expires when the court is unexpectedly closed, the order shall be effective until the second day the court is open.

#### **341.2 POLICY**

It is the policy of the St. Mary's County Sheriff's Office to petition for and serve extreme risk protective orders in compliance with state law, and to properly account for firearms and ammunition obtained by the Office pursuant to such orders.

# St. Mary's County Sheriff's Office

## LE Policy Manual

### *Extreme Risk Protective Orders*

---

#### **341.3 EXTREME RISK PROTECTIVE ORDER COORDINATOR**

The Sheriff will appoint an extreme risk protective order coordinator (Duty Officer). The responsibilities of the coordinator for facilitation include:

- (a) Developing and maintaining procedures for the filing of a petition for an extreme risk protective order by the Office (Md. Code PS § 5–601; Md. Code PS § 5–602).
- (b) Developing and maintaining procedures for the receipt and service of extreme risk protective orders consistent with the requirements of Md. Code PS § 5–603, Md. Code PS § 5–604, Md. Code PS § 5–607, and Md. Code PS § 5–608. Procedures should include:
  - 1. Acceptance of voluntarily surrendered firearms and ammunition from a person who is the subject of the protective order.
  - 2. Assessing a protective order prior to service to determine whether the order should be served pursuant to the Warrant Service Policy and the Operations Planning and Deconfliction Policy. [607.5 ARREST WARRANTS](#) and [608.4.3 HIGH-RISK OPERATIONS](#)
  - 3. Preparing or obtaining a search warrant prior to attempting service of the extreme risk protective order.
  - 4. Service of the extreme risk protective order as soon as possible, return of service to the clerk, and notification to the Department of Public Safety and Correctional Services.
  - 5. Storage and return or disposition of surrendered and seized firearms.
  - 6. Criteria for assessing mental health risks and the appropriateness for emergency evaluations.
- (c) Coordinating with the Training Coordinator to provide deputies who may be involved in petitioning for or serving extreme risk protective orders with appropriate training. Training should include determining when a petition is appropriate, the process for seeking an extreme risk protective order, and the process for serving such an order.
- (d) Reviewing each petition and service for an extreme risk protective order to ensure compliance with this policy, office procedures, and state law.

#### **341.4 EXTREME RISK PROTECTIVE ORDERS**

A deputy who reasonably believes that an extreme risk protective order is appropriate shall obtain supervisor approval prior to seeking an order. Any agency personnel seeking an order shall notify the Duty Officer.

##### **341.4.1 STANDARDS**

Extreme risk protective orders may be appropriate if a person poses an immediate and present danger of causing personal injury to him/herself or another by having a firearm (Md. Code PS § 5–603).

## *Extreme Risk Protective Orders*

---

### 341.4.2 REQUIREMENTS OF PETITION

An application for an extreme risk protective order should be prepared consistent with state law and the procedures developed by the extreme risk protective order coordinator (Md. Code PS § 5-602).

For further information related to Requirements of Petition, see the St.Mary's County Sheriff's Office LE Procedures Manual: [Law Enforcement Petitions for ERPOs](#).

### 341.5 SERVICE

Deputies shall personally serve a copy of an extreme risk protective order, along with the accompanying notice of hearing and petition, if applicable, on the person named in the order as soon as possible and make the proper return. Service of extreme risk protective orders takes precedence over the service of other orders, except for orders of a similar emergency nature (Md. Code PS § 5-603; Md. Code PS § 5-604).

Within two hours after service of an extreme risk protective order, this office is responsible for electronically notifying the Department of Public Safety and Correctional Services (Md. Code PS § 5-603; Md. Code PS § 5-604).

For further information related to Service, see the St.Mary's County Sheriff's Office LE Procedures Manual: [Service of ERPO Orders](#) and [Violations of an Extreme Risk Protective Order](#).

#### 341.5.1 SAFETY CONSIDERATIONS

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

When appropriate based on the circumstances and office procedures, service of extreme risk protective orders should be executed pursuant to the Operations Planning and Deconfliction Policy. [608.6 OPERATIONS PLAN](#)

In no circumstances should less than two deputies be present when an extreme risk protective order is being served.

#### 341.5.2 SURRENDER OF FIREARMS AND AMMUNITION

When an Extreme Risk Protective Order has been issued, officers may subsequently develop information that firearms and/or ammunition are in the possession of the respondent. Officers should make an attempt to gain consent from a legal authority at the respondent's residence to allow access into the home or other locations to secure any firearms and/or ammunition.

Deputies serving an extreme risk protective order shall request that the person who is the subject of the order immediately surrender all firearms and ammunition in his/her custody, control, or possession. Deputies shall take custody of any firearms or ammunition.

A property record identifying all surrendered items and the process for reclaiming the items shall be prepared by the deputy and a copy given to the person (Md. Code PS § 5-608). The deputy

# St. Mary's County Sheriff's Office

## LE Policy Manual

### *Extreme Risk Protective Orders*

---

shall ensure the original property record and items taken into custody are forwarded to the Property Unit before they secure for the day.

All items collected should be handled and cataloged in accordance with the Property Policy.

#### [802.5.1 PROCESSING AND PACKAGING](#)

For further information related to Surrender of Firearms and Ammunition, see the St. Mary's County Sheriff's Office LE Procedures Manual: [Obtaining Firearms and Ammunition in the Possession of the Respondent](#).

#### **341.5.3 SEARCH WARRANTS**

If the person subject to the extreme risk protective order refuses to surrender all firearms and ammunition or if a deputy serving an extreme risk protective order reasonably believes there are firearms or ammunition in the person's custody, control, or possession that have not been surrendered, the deputy should consider whether to seek a search warrant (Md. Code CP § 1–203; Md. Code PS § 5–607).

Deputies should be prepared to file a search warrant prior to attempting service of an extreme risk protective order. Preparation and service of the search warrant should be done in accordance with the Warrant Service Policy. [607.6 WARRANT PREPARATION](#)

#### **341.6 STATION CLERK SUPERVISOR RESPONSIBILITIES**

The Station Clerk Supervisor is responsible for:

- (a) Ensuring orders have been properly entered into state and national databases as required.
- (b) Removing from any computer-based system in which it was entered, an original order upon receipt of an order to vacate from the court as required

#### **341.7 COURT-ORDERED SURRENDER OF FIREARMS AND AMMUNITION**

Authorized members should accept firearms and ammunition from any person who is the subject of an extreme risk protective order. The member receiving any such firearms or ammunition shall issue a property record identifying all surrendered items, in addition to following other relevant Office procedures (Md. Code PS § 5–608).

There may be occasions where the respondent has been served with an order in court and law enforcement will be subsequently notified by receipt of a copy of said order. In such cases, upon receipt, officers shall then make a good faith effort to secure all firearms and ammunition in the possession of the respondent.

For further information related to Court-Ordered Surrender of Firearms and Ammunition, see the St. Mary's County Sheriff's Office LE Procedures Manual: [Law Enforcement Responsibility upon Taking Possession of Firearms and/or Ammunition](#).

# St. Mary's County Sheriff's Office

## LE Policy Manual

### *Extreme Risk Protective Orders*

---

#### **341.7.1 STATE-SPECIFIC REQUIREMENTS**

The property record identifying all surrendered items shall contain information concerning make, model, and serial number, as applicable, and a copy shall be given to the person (Md. Code PS § 5–608). The member shall ensure the original property record is forwarded to the Property Unit as soon as practicable but no later than before securing for the day.

The receiving member shall also ensure that the person who is the subject of the order is provided with information on the process for reclaiming the firearms and/or ammunition upon the expiration or termination of the order (Md. Code PS § 5–608).

All firearms received in relation to an extreme risk protective order should be stored and transported in a protective case, if available, and in a manner to prevent damage to the firearm. No identifying or other marks may be placed on the firearm (Md. Code PS § 5–608).

#### **341.8 RELEASE OF FIREARMS AND AMMUNITION**

Any person requesting the release of any firearm or ammunition in Office custody pursuant to an extreme risk protective order should be referred to the Property Unit. Firearms or ammunition received in relation to an extreme risk protective order should only be disposed of in accordance with Md. Code PS § 5–608 and established office policies and procedures.

#### **341.9 RENEWAL OF EXTREME RISK PROTECTIVE ORDER**

The Criminal Investigations supervisor is responsible for the review of any extreme risk protective order obtained by the Office to determine if renewal or extension of the order should be requested within the time prescribed by law (Md. Code PS § 5–606).

For procedures related to Renewal, see the St. Mary's County Sheriff's Office LE Procedures Manual: [Law Enforcement Responsibility Upon Expiration of ERPO](#)

#### **341.10 MENTAL HEALTH REFERRALS**

Any member who receives notice of a referral for an emergency mental evaluation of a respondent in a matter involving an extreme risk protective order from a District Court commissioner should ensure that an emergency mental evaluation is conducted, if appropriate, in accordance with state law and the Mental Health Evaluations policy (Md. Code PS § 5-603; Md. Code HG § 10-601 et seq.).

#### **341.11 COURT PROCESS AND ATTENDANCE**

Officers who apply for interim, temporary, or final extreme risk protective orders will be required to attend the court proceeding(s).

When an officer is the petitioner in an interim or temporary extreme risk protective order hearing, the officer or agency legal representative is the only party the court will allow to summon witnesses in the case. Subpoenas will be requested through the District Court Clerk's Office and must be served by an officer who is not involved in the hearing to avoid any conflict of interest.