

Extreme Risk Protective Orders

343.1 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.

343.1.1 DEFINITIONS

Definitions related to this policy include:

Ammunition:

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.).

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.

Petitioner: The individual filing for an extreme risk protective order.

Possession: Direct physical custody, care, or control; or the ability to control or use a firearm.

Reasonable grounds: The facts and circumstances sufficient to warrant a prudent person to believe that the respondent poses an immediate and present danger of causing personal injury to the respondent, the petitioner, or another by possessing a firearm.

Respondent: The individual whom a petition for an extreme risk protective order is filed.

343.2 POLICY

It is the policy of the Havre de Grace Police Department 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 Department pursuant to such orders.

343.3 EXTREME RISK PROTECTIVE ORDER COORDINATOR

The Police Operations Division Commander will be appointed as the extreme risk protective order coordinator. The responsibilities of the coordinator include:

- (a) Developing and maintaining procedures for the filing of a petition for an extreme risk protective order by the department. (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.

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2. Assessing a protective order prior to service to determine whether the order should be served pursuant to the Search/Arrest Warrant Service Policy and the Operations Planning and Deconfliction Policy.
 3. Preparing necessary information for 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 Officer to provide officers 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, department procedures, and state law.

343.4 EXTREME RISK PROTECTIVE ORDERS

An officer who reasonably believes that an extreme risk protective order is appropriate should obtain supervisor approval prior to seeking an order.

343.4.1 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).

343.4.2 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).

343.5 SERVICE

Officers 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 risk protection 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 department is responsible for electronically notifying the Department of Public Safety and Correctional Services (Md. Code PS § 5-603; Md. Code PS § 5-604).

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343.5.1 SAFETY CONSIDERATIONS

Upon receipt of an extreme risk protective order, the Watch Commander should evaluate the circumstances of the order and consider what precautions are appropriate for service.

When appropriate based on the circumstances and department procedures, service of extreme risk protective orders should be executed pursuant to the Operations Planning and Deconfliction Policy.

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

343.5.2 SURRENDER OF FIREARMS AND AMMUNITION

Officers 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. Officers shall take custody of any firearms or ammunition.

A property sheet will act as a receipt, identifying all surrendered items. This documentation will note make, model, caliber and serial numbers of any firearms surrendered or seized. An accurate description and count of any ammunition seized will also be documented on the property sheet.

The officer will provide information to the respondent on the process for reclaiming or retaking possession of the firearms and ammunition on the expiration or termination of the order. (Md. Code PS § 5–608). The officer should ensure the original receipt is forwarded to the Records Manager as soon as practicable.

All items collected should be handled and booked in accordance with the Property and Evidence Section Policy.

- NCIC checks will be conducted on all recovered firearms.
- Photographs should be taken of the firearms to document the condition of the firearms at the time of the surrender or seizure.
- Photos of damage, rust, scratches, etc. are important to protect against false claims of department mishandling.

343.5.3 SEARCH WARRANTS

If the person subject to the extreme risk protective order refuses to surrender all firearms and ammunition or if an officer 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 officer should consider whether to seek a search warrant (Md. Code CP § 1–203; Md. Code PS § 5–607).

Officers 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 Search/Arrest Warrant Service Policy.

343.6 RECORDS MANAGER RESPONSIBILITIES

The Records Manager is responsible for:

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- (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

343.7 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 document the incident on a written report. They will also use a property sheet to issue a receipt identifying all surrendered items, in addition to following other relevant department procedures (Md. Code PS § 5–608).

343.7.1 STATE-SPECIFIC REQUIREMENTS

The property sheet/receipt 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 should ensure the original receipt is forwarded to the Records Manager as soon as practicable.

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).

343.8 RELEASE OF FIREARMS AND AMMUNITION

Any person requesting the release of any firearm or ammunition in department custody pursuant to an extreme risk protective order should be referred to the Property and Evidence Section. 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.

343.9 RENEWAL OF EXTREME RISK PROTECTIVE ORDER

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

343.10 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.).