



HOWARD COUNTY DEPARTMENT OF POLICE

GENERAL ORDER OPS-74 EXTREME RISK PROTECTIVE ORDERS

EFFECTIVE SEPTEMBER 28, 2018

This General Order contains the following sections:

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I. POLICY

It is the policy of the Howard County Department of Police (HCPD) to utilize Extreme Risk Protective Orders (ERPO) as a means of protecting citizens.

II. DEFINITIONS

- A. **Ammunition:** A cartridge, shell, or any other device containing explosive or incendiary material designed and intended for use in a firearm.
- B. **Extreme Risk Protective Order (ERPO):** A civil order prohibiting the Respondent from possessing and purchasing a firearm and ammunition and ordering the Respondent to surrender to law enforcement any firearm and ammunition in the Respondent's possession for the duration of the Order.
- C. **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. Firearm includes a handgun, rifle, shotgun, and starter gun.
- D. **Petitioner:** A individual who files a petition for an Interim, Temporary or Final ERPO. Petitioners who file for an ERPO in good faith are immune from civil liability. A Petitioner may be any one of the following:
 - 1. A physician, psychologist, clinical social worker, licensed clinical professional counselor, clinical nurse specialist in psychiatric and mental health nursing, psychiatric nurse practitioner, licensed clinical marriage or family therapist, or designee of a health officer who has examined the individual;
 - 2. A law enforcement officer;
 - 3. The spouse of the Respondent;
 - 4. A cohabitant of the Respondent;
 - 5. A person related to the Respondent by blood, marriage, or adoption;
 - 6. An individual who has a child in common with the Respondent;
 - 7. A current dating or intimate partner of the Respondent; or
 - 8. A current or former legal guardian of the Respondent.

- E. **Possession:** Possessing a firearm and ammunition means the Respondent has firearms and/or ammunition within his control; this includes those firearms and ammunition the Respondent has access to. Firearms and ammunition owned by other persons may be seized if the Respondent has reasonable access to them.
- F. **Reasonable grounds:** Where there is sufficient evidence to support the reasonable belief that the Respondent poses an immediate and present danger of causing personal injury to himself, the Petitioner, or another individual by possessing a firearm.
- G. **Respondent:** A person against whom a petition for an ERPO is filed.

III. TYPES OF EXTREME RISK PROTECTIVE ORDERS

- A. Interim ERPO
 - 1. When the District Court is closed, the Petitioner can file a petition with the court Commissioner for an Order and the court Commissioner can issue an Order.
 - 2. May include a referral for law enforcement to determine whether the Respondent should be taken for an emergency mental evaluation.
 - 3. Shall be effective until the Temporary Risk Protective Order hearing, but not beyond the second business day after the court is closed for unforeseen circumstances.
- B. Temporary ERPO
 - 1. A Petitioner can file a petition with the District Court for the issuance of an ERPO when the court is open and hearing will be held.
 - 2. May include a court ordered emergency mental evaluation of the Respondent.
 - 3. Shall not last more than seven (7) days after the service of the order, but may be extended by the judge as needed up to six (6) months. If the court is closed unexpectedly on the expiration date, the order will remain in effect until the second day the Court is back open.
- C. Final ERPO
 - 1. May be issued after a hearing before a District Court judge.
 - 2. Shall be valid for the period stated in the Order not to exceed one (1) year unless the Order is modified, rescinded, or extended for 6 months after an additional hearing.

IV. EXTREME RISK PROTECTIVE ORDER PETITION AND FILING

- A. There must be sufficient information to believe the Respondent poses an immediate and present danger of causing injury to himself, the Petitioner, or others by possessing a firearm for an ERPO to be filed.
- B. If a person eligible to file an ERPO petition has first-hand knowledge that a Respondent presents an immediate danger to himself or others because of possession of or access to a firearm:
 - 1. The officer should encourage the person with first-hand knowledge to file the ERPO petition and assist them in doing so;

2. If the person with first-hand knowledge is unable or unwilling to file the ERPO petition, the officer shall file the petition if the officer can verify the information with supporting evidence that meets the criteria for an ERPO. Otherwise, officers should not file the ERPO.
- C. If an officer receives information from an individual who is ineligible to be an ERPO Petitioner:
1. The officer shall file the petition if, after conducting an investigation, the officer is able to verify and obtain supporting evidence that meets the criteria for filing the ERPO petition.
 2. If the officer is unable to verify and obtain evidence that meets the criteria for an ERPO, the officer shall not file the ERPO petition, and shall contact their supervisor for further guidance.
- D. An ERPO petition must state specific information known regarding the immediate and present danger the Respondent poses to himself, the Petitioner, or another person due to his current possession of or access to firearms. The information in the Petition should include:
1. A description of the behavior(s) and statements made by the Respondent that lead to the belief the Respondent is an immediate and present danger, including threats of violence and if any threats involved a firearm.
 2. Any known unlawful, reckless, or negligent use, display, storage, possession, or brandishing of a firearm.
 3. A description of the number, types, and locations of any firearms believed to be possessed by the Respondent.
 4. Any known mental health information about the Respondent.
 5. Any violations by the Respondent of any peace or protective orders, even if those peace and protective orders are not on behalf of the Petitioner.
 6. Any known abuse of alcohol or controlled dangerous substances (CDS).
 7. Any criminal convictions involving CDS.
- E. The Petitioner shall file for an interim ERPO with the District Court Commissioner when the District Court is closed.
1. The Commissioner may issue an Interim ERPO that is effective until a Temporary ERPO hearing is scheduled.
 2. The Petitioner is required to be present at all hearings.
- F. The Petitioner shall file a Temporary ERPO petition with the District Court when the Court is open.
1. A hearing will be held and the Temporary ERPO may be issued. If a Temporary ERPO is granted the final ERPO hearing will be scheduled.
 2. The Petitioner is required to be present at all hearings.

- G. If the Petitioner is a member of the HCPD, the Office of Law (OOL) shall be contacted by the petitioning member as soon as practicable via email at erpo@howardcountymd.gov to discuss representation at the Final ERPO hearing. The OOL is responsible for subpoenaing witnesses and representing all HCPD members at the final hearing when the officer is the Petitioner.
- H. Officers attending any ERPO hearing as a Petitioner must email the Records Section at records@howardcountymd.gov to update the ERPO Log indicating the status and expiration date of the ERPO immediately after the hearing.

V. SERVICE OF EXTREME RISK PROTECTIVE ORDERS¹

- A. Officers who are Petitioners for an ERPO are responsible for notification to their supervisor, all required background checks, service attempts, and court appearances required under this General Order or as otherwise directed.
- B. Upon the receipt of an Interim or Temporary ERPO filed by a Petitioner other than an HCPD officer, a patrol officer shall retrieve the ERPO from the District Court or the District Court Commissioner and determine the area of service.
 - 1. If the ERPO is to be served within the HCPD's jurisdiction, the officer shall deliver the order to the area supervisor who will assign it for service.
 - 2. If the ERPO is to be served in another jurisdiction, the officer shall deliver the order to their supervisor who shall consult with the Watch Commander for the coordination of service. The Watch Commander shall consult with the on-call CIB supervisor regarding the service of ERPOs in other jurisdictions or coordinating with the appropriate law enforcement agency for service.
 - 3. If another law enforcement agency contacts HCPD for the service of an ERPO and the request is reasonable, the Watch Commander will make a determination regarding the service.
 - 4. If an ERPO is issued by a District Court other than Howard County and sent for service in Howard County, the HCPD shall serve that ERPO.
- C. The area supervisor shall
 - 1. Ensure an IR number is obtained for all ERPOs.
 - 2. Request ERPO entry in METERS/NCIC.
 - a. During hours the Records Section is open, scan and send the ERPO to records@howardcountymd.gov or fax a copy to extension 2277. Records should be contacted prior to sending the ERPO for entry. Generally, Records is open 0730 through 2330, Monday through Friday. Entry shall be verified via a return email or fax from Records.
 - b. When the Records Section is closed, fax the ERPO to Communications at extension 2329 and call extension 2966 for receipt of a confirmation number.
 - 3. Enter the ERPO in the ERPO log.

¹ CALEA 74.2.1

4. The Maryland State Police Gun Center shall be contacted at 855-677-6486 gun.center@maryland.gov to verify the Respondent's current firearms qualification status and the number and types of firearms registered to the Respondent.
 5. Contact Records or Communications to verify all the appropriate background checks have been conducted on the Respondent, including but not limited to I-Leads, Secure Judiciary Case Search, METERS/NCIC, etc.
 6. Attempt to verify the number and types of firearms possessed by the Respondent from additional sources. The Firearms Investigator may provide assistance in navigating applicable firearms rules and regulations
 7. Determine the existence of any negative prior contacts with law enforcement.
 8. Limited background checks shall be completed for all other known persons living in the residence where the ERPO will be served.
 9. Determine the number of officers who shall serve the ERPO and if a risk assessment should be completed.
- D. Confirm the location of the Respondent and arrange for service of the ERPO.
- E. Supervisors are required to be on location at the service of the order.
- F. If the Respondent is on location and complies, the officer shall request the surrender of all firearms and ammunition listed on the ERPO as well as any additional firearms and ammunition in the Respondents possession or as directed by the court order.²
1. All firearms and ammunition shall be inventoried on Form HCPD 1225, Receipt of Surrendered Firearms/Ammunition. The Respondent should sign the form and be provided with a copy. If the Respondent refuses to sign form 1225, the officer shall write "refused to sign" on the signature line and leave a copy with the Respondent.
 2. Firearms shall be submitted to Property and Evidence following all applicable General Orders.
 3. If the officer has direct knowledge or can articulate a basis for a belief that the Respondent has access to additional firearms within the location, whether they are the property of the Respondent or a third party, the officer shall:
 - a. Attempt to have the owner voluntarily surrender the firearms and ammunition for safekeeping for the duration of the ERPO; or
 - b. If the owner will not surrender the firearms and ammunition, consult with a Watch Commander as to whether to apply for a search and seizure warrant.
- G. If the Respondent is on location and unwilling to comply with the provisions of the ERPO
1. Explain to the Respondent that failure to surrender the firearms and ammunition will result in their arrest and criminal charges.
 2. If they are still unwilling to comply, arrest the Respondent and complete a search warrant for violation of the ERPO.

² CALEA 84.1.8

- a. Secure the location and obtain a search and seizure warrant for the firearms and ammunition.
 - b. If necessary, contact the Firearms Investigator to assist with the search warrant. If the Firearms Investigator is unavailable, a warrant template will be available for patrol officers to complete the search warrant.
- H. If the Respondent is unable to surrender the firearms and ammunition because they are not in the place of service:
 - 1. Serve the Respondent with the ERPO.
 - 2. Ask the Respondent to accompany officers to where the firearms and ammunition are located so they may be surrendered, or to provide written consent for the officers to retrieve the firearms and ammunition.
 - 3. If the Respondent refuses, place him under arrest, if applicable, for failure to comply with the ERPO and obtain a search warrant for the firearms.
- I. If the Respondent is subject to a court ordered Emergency Petition (EP) as well as an ERPO:
 - 1. Serve the Respondent with the ERPO and request the surrender of firearms and ammunition prior to service of the EP.
 - 2. If the Respondent refuses to comply with the ERPO, serve the Respondent with the EP and transport them to the hospital. Secure the location and obtain a search warrant to retrieve the firearms and ammunition.
- J. If the Respondent is not on location or cannot be located the officer should attempt to make arrangements with an adult in the residence, i.e. a spouse or parent, to recover the firearms. This person shall sign HCPD 1225 as receipt of the firearms and ammunition.
- K. After reasonable attempts to serve the ERPO, if the Respondent cannot be located and another adult person is not present in the location to turn over the firearms and ammunition, the supervisor on scene shall determine:
 - 1. If the order will be passed on to the incoming Watch Commander and the ERPO log updated appropriately; or
 - 2. A search warrant and application for charges shall be applied for if the officer can articulate the Respondent is intentionally avoiding service.
 - 3. If the officer cannot articulate avoidance of service, the Mental Health Unit or Firearms Investigator shall be contacted for further guidance.
 - 4. The Petitioner is required to attend any scheduled hearings even if the ERPO has not been served. After a final determination has been made by the Court, the ERPO log shall be updated and it shall be returned to Records.
- L. If an officer has contact with a person subject to an ERPO to be served in Howard County, the officer may detain the Respondent for service of the ERPO.

- M. If the Respondent of an ERPO is a member of the HCPD:
1. Any member of the HCPD who is a Respondent in an ERPO shall immediately notify his Deputy Chief through the chain of command. If the member is a sworn officer, his police powers will be suspended by a commissioned officer pending a review by the Internal Affairs Division.
 2. A supervisor of at least equal rank to the Respondent shall respond to the scene for serving the ERPO.
 3. The Watch Commander shall:
 - a. Immediately notify the member's Division, District, or Bureau Commander; and
 - b. Forward a copy of the incident report and ERPO to the Chief of Police, the Internal Affairs Division, and the member's Bureau or District Commander.
 4. If the Respondent is a sworn member and served with an emergency petition and/or placed under arrest during service of the ERPO, a Commissioned Officer shall report to the scene and:
 - a. After consultation through the Chain of Command, suspend the member's police powers pursuant to General Order ADM-02, Internal Investigations; and
 - b. Seize the member's badge and police credentials, and verify all firearms have been seized per this General Order.
- N. If the Respondent of an ERPO served in Howard County is a police officer from another law enforcement agency, the Watch Commander shall:
1. Immediately notify a Commander of the respective agency: and
 2. Forward a copy of the completed incident report and the ERPO to the Howard County Chief of Police, Deputy Chief for Operations, and Internal Affairs Division.
- O. After service of the ERPO, officers shall immediately send the Return of Service:
1. When the Records Section is open, scan, and send the return of service form to records@howardcountymd.gov or fax to extension 2277. Receive a return email or fax receipt from Records indicating entry in METERS/NCIC.
 2. When the Records Section is closed, fax the return to Communications for entry in METERS/NCIC at extension 2329 and call extension 2966 for the receipt confirmation number.

VI. VIOLATION OF EXTREME RISK PROTECTIVE ORDERS

- A. An officer shall make a warrantless arrest of any person who the officer has probable cause to believe is in violation of an interim, temporary, or final ERPO. If the person cannot be immediately located, the officer shall complete an application for charges.
- B. In situations where the officer has developed probable cause that the Respondent has failed to surrender firearms/ammunition or acquired new ones, an application for charges and search warrant shall be written and may be granted by the courts for violation of a court order.

- C. If the Respondent in violation of an ERPO is a juvenile, take him into custody and follow the procedures detailed in General Order OPS-04, Arrest Procedures, for charging.

VII. REPORTING REQUIREMENTS

- A. The officer serving an ERPO shall submit prior to the end of their shift:
1. An incident report with the classification code 169, Service of an ERPO. Attach the proof of entry into METERS/NCIC.
 2. Written statements from any witnesses.
 3. A copy of HCPD Form 1225, Receipt for Surrendered Firearms and Ammunition.
 4. A copy of HCPD Form 1300, Property Room Submission Form.
 5. All ERPO documentation and the return of service for the ERPO.
- B. Prior to the end of shift, the supervisor shall ensure:
1. The officer has completed and submitted all required reports.
 2. The status of the ERPO is updated in the electronic ERPO Log.
 3. Scan and email all documentation and associated incident reports to the Mental Health Section at ep@howardcountymd.gov for tracking purposes.

AUTHORITY:



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