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# CHAMPAIGN POLICE DEPARTMENT

## POLICY and PROCEDURE

POLICY NUMBER: 13.1

SUBJECT: FIREARMS RESTRAINING ORDERS

EFFECTIVE DATE: 05/11/25

REVISED DATE:

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REFERENCE ILEAP:

INDEX AS:

- 13.1.1 PREPARING A VERIFIED PETITION FOR A FIREARMS RESTRAINING ORDER
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- 13.1.6 DATA ENTRY AND MAINTENANCE

### **PURPOSE:**

The purpose of this policy is to provide guidance on the Firearms Restraining Order Act, ensuring officers are familiar with the law's mandates and outlining procedures related to their roles in petitioning and serving a Verified Petition for a Firearms Restraining Order.

### **POLICY STATEMENT:**

It is the policy of the Champaign Police Department to comply with provisions of 430 ILCS 67, the Firearms Restraining Order Act. The Firearms Restraining Order Act allows a family member of the respondent or a law enforcement officer to petition the court for a Firearms Restraining Order alleging that the respondent poses a significant danger of causing personal injury to themselves or to others by possessing a firearm. During the hearing with the court, the petitioner, a family member of the respondent, or a law enforcement officer, may request that the court issue a search warrant to seize weapons, ammunition, or firearm parts that could be assembled to make an operable firearm. If the court finds probable cause to believe the respondent possesses such items, law enforcement officers may be tasked with executing a search warrant to seize the items listed in the Verified Petition for a Firearms Restraining Order.

### **DEFINITIONS:**

**Emergency Firearms Restraining Order Hearing:** A designation on the Verified Petition for a Firearms Restraining Order where the petitioner may request an emergency hearing the next day court is in session or on the same day the Verified Petition for Firearms Restraining Order was filed with the court to inform the judge why a Firearms Restraining Order should be

issued on an ex parte basis. The person or officer who is providing the information in the document and signing the verified pleading will be required to appear at the hearing.

**Family Member of the Respondent:** A spouse, former spouse, person with whom the respondent has a minor child in common, parent, child, or stepchild of the respondent, any other person related by blood or present marriage to the respondent, or a person who shares a common dwelling with the respondent.

**Emergency Firearms Restraining Order:** An order issued by the court, prohibiting and enjoining a named person from having in his or her custody or control, purchasing, possessing, or receiving any firearms or ammunition, or removing firearm parts that could be assembled to make an operable firearm. Also orders the named person to comply with Section 9.5 of the Firearm Owners Identification Card Act and subsection (g) of Section 70 of the Firearm Concealed Carry Act. Is effective from the date of the entry for up to 14 days.

**Intimate Partner:** A spouse, former spouse, a person with whom the respondent has or allegedly has a child in common, or a person with whom the respondent has or has had a dating or engagement relationship.

**Petitioner:** (1) A family member of the respondent as defined 430 ILCS 67; or (2) A law enforcement officer who files a petition alleging that the respondent poses a danger of causing personal injury to himself, herself, or another by having in his or her custody or control, purchasing, possessing, or receiving a firearm, ammunition, or firearm parts that could be assembled to make an operable firearm.

**Plenary Firearms Restraining Order:** An order issued by the court prohibiting and enjoining a named person from having in his or her custody or control, purchasing, possessing, or receiving any firearms or ammunition, or removing firearm parts that could be assembled to make an operable firearm. Also orders the named person to comply with Section 9.5 of the Firearm Owners Identification Card Act and subsection (g) of Section 70 of the Firearm Concealed Carry Act. Issued for a time period of no less than six months and no longer than one year.

**Respondent:** The person alleged in the petition to pose a danger of causing personal injury to himself, herself, or another by having in his or her custody or control, purchasing, possessing, or receiving a firearm, ammunition, or firearm parts that could be assembled to make an operable firearm or removing firearm parts that could be assembled to make an operable firearm.

Six Month Firearms Restraining Order Hearing: A designation on the Verified Petition for a Firearms Restraining Order requesting a hearing with the court 30 days from the court's receipt of the Verified Petition for a Firearms Restraining Order to inform the judge why a Plenary Firearms Restraining Order should be issued.

Verified Petition for a Firearms Restraining Order: A document used by the petitioner or a law enforcement officer to request a hearing in front of the court to request a Firearms Restraining Order.

**POLICY:**

**13.1.1 PREPARING A VERIFIED PETITION FOR A FIREARMS RESTRAINING ORDER**

- A. The distinction between the Firearms Restraining Order Act and Clear and Present Danger Reporting, 430 ILCS 65/1.1, is that reporting under Clear and Present Danger Reporting is directed to the Illinois State Police, and under the Firearms Restraining Order Act, reporting is through the court system which will ultimately determine if the items indicated in the Verified Petition for a Firearms Restraining Order will be seized from the respondent through the execution of a search warrant.
- B. When initiating a Firearms Restraining Order, the officer shall also complete the Illinois State Police – Person Determined to Pose a Clear and Present Danger form, which must be submitted to the Illinois State Police within 24 hours of the determination. A copy of the form shall be attached to the officer's police report, and the officer's police report and other supporting documentation shall be uploaded to the electronic form.
- C. A Firearms Restraining Order is initiated through completing and filing a Verified Petition of a Firearms Restraining Order in any circuit court having jurisdiction. A Firearms Restraining Order should also be considered when firearms have been taken into safekeeping, and it is alleged the respondent has access to others in a different location. A petition for a Firearms Restraining Order may be filed in:
  - 1. Any county where the respondent resides, or
  - 2. Any county where an incident occurred involving the respondent, posing an immediate and present danger of causing personal injury to the respondent or another by having in his or her custody or control, or purchasing, possessing, or receiving, a firearm, ammunition, or firearm parts that could be assembled to make an operable firearm.
- D. The Verified Petition for a Firearms Restraining Order may be filed by an officer or a family member of the respondent as defined in this policy.
- E. When completing the Verified Petition for a Firearms Restraining Order, the officer shall:

- 1. Designate the judicial circuit/county where the respondent resides or the county where the incident occurred.
- 2. Ensure all information fields are completed, including selecting Law Enforcement Officer (LE) on the petition; a description of the type and location of firearms, ammunition, and firearm parts that could be assembled to make an operable firearm; describe the actions of the respondent that justify the petition; and designate the remedies being sought.
- 3. Select whether an Emergency Firearms Restraining Order or a Plenary Firearms Restraining Order is being sought.

- F. When an Emergency Firearms Restraining Order is being sought, the following applies:

- 1. The officer shall obtain approval from the on-duty supervisor and must be able to articulate the respondent poses an immediate and present danger of causing personal injury to himself, herself, or another by having in his or her custody or control, purchasing, possessing, or receiving a firearm, ammunition, or firearm parts that could be assembled to make an operable firearm. The on-duty supervisor shall review the circumstances pertaining to the officer's request for an Emergency Firearms Restraining Order.
- 2. An Emergency Firearms Restraining Order shall be issued without notice to or in the presence of the respondent.
- 3. If the respondent is alleged to pose an immediate and present danger of causing personal injury to an intimate partner, or an intimate partner is alleged to have been the target of a threat or act of violence by the respondent, the officer shall make a good faith effort to provide notice to any and all intimate partners of the respondent.
  - a. A verbal notice must include the advisement that the law enforcement officer intends to petition the court for an Emergency Firearms Restraining Order. The officer shall make a referral to relevant domestic violence, stalking, advocacy, or counseling resources, if appropriate. Documentation of the verbal notice shall be included in the officer's report.
  - b. If, after making a good faith effort, the officer is unable to provide notice to any or all intimate partners, the Verified Petition for a Firearms Restraining Order should describe what efforts were made. The attempts to provide notice shall also be documented in the officer's report.
  - c. If upon petition, a court finds probable cause to believe the respondent poses an

immediate and present danger of causing personal injury to himself, herself, or another by having in his or her custody or control, purchasing, possessing, or receiving a firearm, ammunition, or firearm parts that could be assembled to make an operable firearm, the court shall issue an emergency order.

4. If the court issues an emergency Firearms Restraining Order, it will, upon finding probable cause that the respondent possesses firearms, ammunition, or firearm parts that could be assembled to make an operable firearm, issue a search warrant directing a law enforcement agency to seize the respondent's firearms, ammunition, and firearms parts that could be assembled to make an operable firearm.
5. The court will schedule a full hearing as soon as possible, but no later than 14 days from issuing an Emergency Firearms Restraining Order, to determine whether a Plenary Firearms Restraining Order shall be issued. The court may extend an order as needed, but not to exceed 14 days, to effectuate service of the order or, if necessary, to continue protection. The court may extend the order for a longer period by mutual agreement of the parties.

G. When a Plenary Firearms Restraining Order is being sought, the following procedures apply:

1. The officer shall obtain approval from an on-duty supervisor and be able to articulate that the respondent poses a significant danger of causing personal injury to himself, herself, or another in the near future by having in his or her custody or control, purchasing, possessing, or receiving a firearm, ammunition, and firearm parts that could be assembled to make an operable firearm. The on-duty supervisor shall review the circumstances pertaining to the officer's request for a Plenary Firearms Restraining Order.
2. In determining whether to issue a Firearms Restraining Order, the court will consider evidence, including, but not limited to, the below, as specified in 430 ILCS 67/40. The officer and the on-duty supervisor may use these circumstances as a guide to support the level of danger the respondent poses to themselves and others:
  - a. The unlawful and reckless use, display, or brandishing of a firearm, ammunition, and firearm parts that could be assembled into an operable firearm by the respondent.
  - b. The history of use, attempted use, or threatened use of physical force by the respondent against another person.
  - c. Any prior arrest of the respondent for a felony offense.

d. Evidence of the abuse of controlled substances or alcohol by the respondent.

e. A recent threat of violence or act of violence by the respondent directed toward himself, herself, or another.

f. A violation of an emergency order of protection issued under Section 217 of the Illinois Domestic Violence Act of 1986 or Section 112A-17 of the Code of Criminal Procedure of 1963 or an order of protection issued under Section 214 of the Illinois Domestic Violence Act of 1986 or Section 112A-14 of the Code of Criminal Procedure of 1963.

g. A pattern of violent acts or violent threats, including but not limited to, threats of violence or acts of violence by the respondent directed toward himself, herself, or another.

3. If the respondent is alleged to pose a significant danger of causing personal injury to an intimate partner, or an intimate partner is alleged to have been the target of a threat or act of violence by the respondent, the officer shall make a good faith effort to provide notice to any and all intimate partners of the respondent.

a. The notice must include the duration of time the officer intends to petition the court for a Firearms Restraining Order. The officer shall also make a referral to relevant domestic violence or stalking advocacy or counseling resources, if appropriate.

b. If, after making a good faith effort, the officer is unable to provide notice to any or all intimate partners, the Verified Petition for a Firearms Restraining Order should describe what efforts were made.

c. The notice and attempts to provide notice shall be documented in the officer's police report.

4. Upon receipt of the Verified Petition for a Firearms Restraining Order, the court will order a hearing within 30 days. At the hearing, the officer will have the burden of proving, by clear and convincing evidence, that the respondent poses a significant danger of personal injury to himself, herself, or another by having in his or her custody or control, purchasing, possessing, or receiving a firearm, ammunition, and firearm parts that could be assembled to make an operable firearm.

5. If the court finds there is clear and convincing evidence to issue a Firearms Restraining Order, the court will issue a Firearms Restraining Order that will be in effect for up to one year, but no less than six months.

6. If the court issues a Firearms Restraining Order, it will, upon finding probable cause that the respondent possesses firearms, ammunition, or firearm parts that could be assembled to make an operable firearm, issue a search warrant directing a law enforcement agency to seize the respondent's firearms, ammunition, and firearms parts that could be assembled to make an operable firearm.

#### **13.1.2 COURT-ORDERED SEARCH WARRANT EXECUTION**

- A. The on-duty supervisor shall work with an Operational Support Division supervisor and SWAT Team Commander, Team Leader, Assistant Team Leaders, or their designee, to determine the appropriate procedures for serving the search warrant.
- B. The respondent's FOID card and/or Concealed Carry License status shall be verified through the Law Enforcement Agencies Data System (LEADS) prior to the service of the search warrant.
- C. Officers will generally only serve search warrants issued within the Department's jurisdiction. If, in the event the Department files a Verified Petition for a Firearms Restraining Order in a jurisdiction outside of the City of Champaign, the law enforcement agency having jurisdiction will be requested to execute the search warrant.
- D. The court may, as part of that warrant, direct officers to search the respondent's residence and other places where the court finds there is probable cause to believe they are likely to possess firearms, ammunition, or firearm parts that could be assembled to make an operable firearm.
- E. A search warrant return shall be filed by the Department within four days thereafter, setting forth the time, date, and location that the search warrant was executed, and what items, if any, were seized.
- F. In all cases, the respondent's FOID Card and/or Concealed Carry License (if located and seized) and the completed Firearm Disposition Record shall be sent to the Illinois State Police.
- G. All other evidence seized during the search warrant service will be submitted to evidence as outlined in Policy 84.1, Evidence and Recovered Property.
- H. For respondents that are compliant with the Firearms Restraining Order and choose to voluntarily surrender their FOID Card, Concealed Carry License, firearms, ammunition, and firearm parts that could be assembled to make an operable firearm, the receiving officer shall ensure the transaction is documented in a police report and clearly documented on the Firearm Disposition Record that is sent to the Illinois State Police.

#### **13.1.3 FIREARMS RESTRAINING ORDER RESTRICTIONS**

- A. The Firearms Restraining Order requires the respondent to refrain from having in his or her custody or control, purchasing, possessing, or receiving additional firearms, ammunition, and firearm parts that could be assembled to make an operable firearm for the duration of the order under Section 8.2 of the Firearm Owners Identification Act, 430 ILCS 65.
- B. The respondent is to comply with Section 9.5 of the Firearm Concealed Carry Act, 430 ILCS 66, and subsection (g) of Section 70 of the Firearm Concealed Carry Act.

#### **13.1.4 FIREARMS RESTRAINING ORDER EXPIRATION**

- A. Upon expiration of the period of safekeeping, if the firearms, ammunition, and firearm parts that could be assembled to make an operable firearm or Firearm Owner's Identification Card cannot be returned to the respondent because the respondent cannot be located, fails to respond to requests to retrieve the firearms, ammunition, and firearm parts that could be assembled to make an operable firearm, or is not lawfully eligible to possess a firearm, ammunition, and firearm parts that could be assembled to make an operable firearm, upon petition from the Department or another local law enforcement agency, the court may order the items be destroyed.
- B. The court may, upon petition from the Department or another local law enforcement agency, permit use of the firearms, ammunition, and firearm parts that could be assembled to make an operable firearm for training purposes, or use the firearms, ammunition, and firearm parts that could be assembled to make an operable firearm for training purposes, or use these items for any other application as deemed appropriate.

#### **13.1.5 FIREARMS RESTRAINING ORDER RENEWAL**

- A. The petitioning officer may request a renewal of a Firearms Restraining Order at any time within three months prior to the expiration of the Firearms Restraining Order.
- B. A court shall, after notice and a hearing, renew a Firearms Restraining Order issued if the officer proves, by clear and convincing evidence, the respondent continues to pose a danger of causing personal injury to himself, herself, or another in the near future by having in his or her custody or control, purchasing, possessing, or receiving a firearm, ammunition, and firearm parts that could be assembled to make an operable firearm.
- C. In determining whether to renew a Firearms Restraining Order under the Firearms Restraining Order Act, the court shall consider the evidence of the facts identified in Section 13.1.1 (G) (2) of this policy and any other evidence of an increased risk

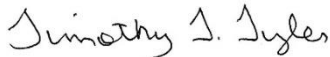
for violence.

- D. The renewal of a Firearms Restraining Order issued under the Firearms Restraining Order Act shall be in effect for up to one year. It may be renewed for an additional period of up to one year, subject to termination by further order of the court at a hearing.

#### **13.1.6 DATA ENTRY AND MAINTENANCE**

- A. The petitioning officer shall ensure the firearm's restraining order is entered into LEADS on the same day it is issued by the court. If an emergency Firearms Restraining Order was issued in accordance with Section 35 of the Firearms Restraining Order Act, the order shall be entered in LEADS as soon as possible after receipt from the clerk.

ISSUING AUTHORITY

A handwritten signature in cursive script that reads "Timothy T. Tyler".

Timothy T. Tyler  
Police Chief  
Champaign Police Department