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Extreme Risk Protection Orders

Edmonds Police Department Policy

321.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for petitioning and serving extreme risk protection orders and accounting for the firearms obtained pursuant to those orders (RCW 7.105. et seq.).

321.1.1 DEFINITIONS

Definitions related to this policy include:

Extreme risk protection order – An order prohibiting a named person from controlling, owning, purchasing, possessing, receiving or otherwise having custody of any firearms.

Ex parte extreme risk protection order – An extreme risk protection order that has been issued in the absence of or without notification to the named person.

Family or Household Members – With respect to a respondent, any:

- Person related by blood, marriage, or adoption
- Dating partners of the respondent
- Person who has a child in common with the respondent, regardless of whether such person has been married to the respondent or has lived together with the respondent at any time
- Person who resides or has resided with the respondent within the past year
- Domestic partner of the respondent
- Persons who has a biological or legal parent-child relationship with the respondent, including stepparents and stepchildren and grandparents and grandchildren
- Person who is acting or has acted as the respondent's legal guardian

321.2 POLICY

It is the policy of the Edmonds Police Department to petition for and serve extreme risk protection orders in compliance with state law (RCW 9.41 et. seq. and 7.105 et. seq.) and to properly account for firearms obtained by the Department pursuant to such orders. Current Law Enforcement forms for ERPOs can be found at: [Snohomish County Law Enforcement- File an Extreme Risk Protection Order](#)

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321.3 TRAINING

The department will provide training on the service of Protection Orders, Extreme Risk Protection Orders (ERPOs) and orders to surrender weapons.

321.4 EXTREME RISK PROTECTION ORDERS

An officer who reasonably believes a person is a present danger to him/herself or another person by controlling, owning, purchasing, possessing, receiving, or otherwise having custody of a firearm may request permission from his/her supervisor to petition the court for an extreme risk protection order. A notification shall be made to the Investigations Unit supervisor, who will assign a detective to assist with the investigation. The primary investigator or designee shall seek a consult with a prosecuting attorney and request their assistance during the petition process.

Officers petitioning the court shall use any standard petition and order forms created by the administrative office of the court.

Link: [Snohomish County Law Enforcement- File an Extreme Risk Protection Order](#)

The petition shall:

- (a) Allege that the person poses a significant danger of causing personal injury to him/herself or others by controlling, owning, purchasing, possessing, receiving, or otherwise having custody of a firearm and be accompanied by an affidavit made under oath, that provides the specific statements, actions or facts that give rise to a reasonable fear of future dangerous acts by the person.
- (b) Identify the number, types and locations of any firearms that the officer believes to be owned, possessed, controlled or in the custody of the person.
- (c) Identify any other known existing protection orders governing the person.
- (d) Identify, if reasonably identifiable, any pending lawsuits, complaints, petitions or other action between the person and the Edmonds Police Department.
- (e) Include an attestation that the officer provided notice of the intent to seek the order to a family or household member of the person and to any third party who the officer reasonably believes may be at risk of violence, or an attestation to the steps that will be taken to provide this notice. An officer may also seek an ex parte extreme risk protection order, without notice to the person, by including in the petition detailed allegations based on personal knowledge that the

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person poses a significant danger of causing personal injury to him/herself or others in the near future by having in his/her custody or control, purchasing, possessing or receiving a firearm.

321.4.1 NOTICE OF PETITION

When a member of the Edmonds Police Department petitions for an extreme risk protection order, he/she shall make a good faith effort to provide notice to a family or household member of the person and to any third party who the member reasonably believes may be at risk of violence.

The notice shall state the intention to seek an extreme risk protection order or that the order has already been sought and include referrals to appropriate resources, including mental health, domestic violence, and counseling.

321.5 SERVICE

In compliance with state law, service of notice of hearing and petitions, ex parte extreme risk protection orders, and extreme risk protection orders should take precedence over the service of other documents unless the other documents are of a similar emergency nature. Officers serving a notice of hearing and petition for an extreme risk protection order should make reasonable efforts to personally serve the person no less than five court days prior to the hearing. If an ex parte extreme risk protection order is issued, then the order, notice of hearing, and petition are served.

Officers assigned to serve an extreme risk protection order shall make reasonable efforts to personally serve the order within 24 hours of receipt of the order whenever practicable but not more than 10 days after the Edmonds Police Department receives the order. When timely personal service is not completed, the officer should notify the court and take reasonable steps to notify the petitioner.

The officer serving any extreme risk protection order, including an ex parte order, shall:

- (a) Request that any firearms and any concealed pistol license be immediately surrendered and issue a receipt for the surrendered items.
 - 1. The officer should ensure the original receipt is forwarded to the Records Supervisor.
- (b) Take into custody any firearms discovered in plain view or pursuant to consent or other lawful search.
- (c) As soon as practicable, but by the end of his/her shift, submit the proof of service to the Records Supervisor.

All firearms collected shall be handled and booked in accordance with the Property and Evidence Policy.

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321.6 SEARCH WARRANTS

If a person who has been served with an extreme risk protection order refuses to surrender any firearm, the officer should consider whether to seek a search warrant. If a search warrant is to be obtained, it shall be prepared and served after a thorough threat assessment and consultation with the SWAT Commander or their designee.

321.7 RECORDS SUPERVISOR RESPONSIBILITIES

The Records Supervisor is responsible for ensuring that:

- (a) Orders received by the court are entered into the national instant criminal background check system or any other federal or state computer-based system used by the Department that identifies prohibited purchasers of firearms, and into any other computer-based criminal intelligence information systems used by the department that lists outstanding warrants.
- (b) The original receipt of surrendered firearms is filed with the court within 72 hours of service of an extreme risk protection order. A copy of the receipt shall also be properly maintained by the Department.
- (c) Any proofs of service for notices or orders are filed with the court.
- (d) Expired or terminated orders entered into computer-based systems by the Department are removed.

321.8 COURT-ORDERED FIREARMS SURRENDERS

Authorized members should accept firearms and a concealed pistol license from any person who is the subject of an extreme risk protection order. The member receiving any firearm shall:

- (a) Record the person's name, address, and telephone number.
- (b) Record the serial number of the firearm.
- (c) Prepare an incident report and property report.
- (d) Provide a property receipt to the person who surrendered the firearms.
 - 1. The original receipt is to be forwarded to the Records Supervisor.
- (e) Package and submit the firearms in accordance with the Property and Evidence Policy.

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321.9 RELEASE OF FIREARMS

Firearms that were taken into custody or surrendered pursuant to an extreme risk protection order should be returned to the restrained person upon the expiration of the order, in accordance with the Property and Evidence Policy.

321.10 RENEWAL OF EXTREME RISK PROTECTION ORDER

The Detective Unit supervisor is responsible for reviewing an extreme risk protection order obtained by the Department to determine if renewal should be requested within the time prescribed by law.