

Extreme Risk Protection Orders

386.1 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.

386.1.1 DEFINITIONS

Definitions related to this policy include:

Extreme risk protection order – An order prohibiting a named person from having custody or control, purchasing, possessing, accessing, receiving, or attempting to purchase or receive 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.

386.2 POLICY

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

386.3 EXTREME RISK PROTECTION ORDERS

A deputy who reasonably believes a person, including a minor (person under the age of 18), is a significant danger to themselves or another person by having in their custody or control, purchasing, possessing, accessing, receiving, or attempting to purchase or receive a firearm may request permission from the deputy's supervisor to petition the court for an extreme risk protection order (RCW 7.105.100).

386.3.1 NOTICE TO PERSONS AT RISK

When a member petitions for an extreme risk protection order, the member shall make a good-faith effort to provide notice to an intimate partner or family or household member of the person and to any known 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 behavioral health, domestic violence, and counseling (RCW 7.105.110).

386.3.2 REQUIREMENTS OF PETITION

An application for an extreme risk protection order should be prepared, filed, and served consistent with state law and the procedures developed by the extreme risk protection order coordinator (RCW 7.105.100; RCW 7.105.105; RCW 7.105.110).

Deputies petitioning the court shall use any standard petition, order, and confidential party information forms created by the administrative office of the courts (RCW 7.105.105).

The petition shall (RCW 7.105.100; RCW 7.105.105; RCW 7.105.110):

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- (a) Allege that the person poses a significant danger of causing personal injury to the person or others by having in the person's control or custody, purchasing, possessing, accessing, receiving, or attempting to purchase or receive a firearm and be accompanied by the confidential party form and declaration signed under penalty of perjury that provides the specific statements and circumstances for which relief is sought.
- (b) Identify the number, types, and locations of any firearms that the [officer_deputy] believes to be owned, possessed, accessed, 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 Kitsap County Sheriff's Office.
- (e) Include an attestation that the deputy 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 deputy reasonably believes may be at risk of violence, or an attestation to the steps that will be taken to provide this notice.

A deputy 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 person poses a significant danger of causing personal injury to the person or others in the near future by having in the person's custody or control, purchasing, possessing, accessing, receiving, or attempting to purchase or receive a firearm. If necessary, the ex parte order may be obtained from an on-call, after-hours judge using the same procedures for after-hours search warrants (RCW 7.105.110).

386.4 SERVICE OF ORDERS

Service of orders should be made in accordance with the agency protocols.

Personal service of orders shall include copies of all forms with the exception of the confidential party information form completed by the protected party and the proof of service form (RCW 7.105.155).

Service of orders should take precedence over the service of other orders, except for orders of a similar emergency nature (RCW 7.105.155).

386.4.1 PERSONAL SERVICE REQUIREMENTS

When personally serving an order, including an ex parte order, the first attempt to serve an extreme risk protection order should be made within 24 hours after receipt from the court unless an emergency situation renders the service infeasible. If an emergency situation prevents a first attempt at service within 24 hours, service shall be attempted as soon as possible. If the first attempt is unsuccessful, at least two additional attempts should be made. If the order is issued against a minor under the age of 18, deputies shall also make reasonable efforts to serve a copy of the order on the parent or guardian of the minor at the address where the minor resides, or the Department of Children, Youth, and Families in the case where the minor is the subject of a dependency or court approved out-of-home placement. A minor shall not be served at the minor's

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school unless no other address for service is known. All attempts at service must be documented on a proof of service form and submitted to the court in a timely matter (RCW 7.105.150; RCW 7.105.155; RCW 7.105.330(5)).

If personal service is not completed within 10 days, the deputy should notify the petitioner, attempt to gain new information sufficient to permit service, and continue to attempt service unless otherwise notified by the court. If the petitioner is unable to provide a service address or there is evidence that the person is evading service, the deputy shall use law enforcement databases to assist in locating the person. If service is not successful, all service attempts shall be documented on the proper form and submitted to the Support Services Supervisor for filing with the court (RCW 7.105.155).

If the protected person is present when service is attempted, the deputy should take reasonable steps to separate the protected person before completing service or inquiring about any firearms (RCW 7.105.155).

386.4.2 SAFETY CONSIDERATIONS

Upon receipt of extreme risk protection order, the operations director or the authorized designee should evaluate the circumstances of the order and consider what precautions are appropriate for service of the protection order.

When appropriate based on the circumstances and office procedures, service of an order should be executed pursuant to the Operations Planning and Deconfliction Policy.

At least two deputies should be present when an order is being served.

386.4.3 SURRENDER OF PROHIBITED ITEMS

The deputy serving any extreme risk protection order, including an ex parte order, shall (RCW 7.105.340):

- (a) Request that any firearms and any concealed pistol license be immediately surrendered, and issue a receipt for the surrendered items.
 - 1. The deputy should ensure the original receipt is forwarded to the Support Services 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 the deputy's shift, submit the proof of service to the Support Services Supervisor.

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

386.5 SEARCH WARRANTS

If a person who has been served with an extreme risk protection order refuses to surrender any firearm, the deputy should consider whether to seek a search warrant. If a search warrant is to

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be obtained, the preparation and service of the search warrant shall be done in accordance with the Warrant Service Policy.

386.6 SUPPORT SERVICES SUPERVISOR RESPONSIBILITIES

The Support Services Supervisor is responsible for ensuring that:

- (a) Orders received from the court are entered into the national instant criminal background check system or any other federal or state computer-based system used by the Office that identifies prohibited purchasers of firearms, and into any other computer-based criminal intelligence information systems used by the Office that lists outstanding warrants (RCW 7.105.350).
- (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 Office (RCW 7.105.340).
- (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 Office are removed (RCW 7.105.350).
- (e) Orders that could not be personally served should be returned to the issuing court on the next judicial day following the last service attempt (RCW 7.105.155).
 - 1. The return should be made on the appropriate form and include the reason that service was unsuccessful.

386.7 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 (RCW 7.105.340).
 - 1. The original receipt is to be forwarded to the Support Services Supervisor.
- (e) Package and submit the firearms in accordance with the Property and Evidence Policy.

386.8 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 (RCW 7.105.345).

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386.9 RENEWAL OF EXTREME RISK PROTECTION ORDER

The Detective Division supervisor is responsible for review of an extreme risk protection order obtained by the Office, to determine if renewal should be requested within the time prescribed by law (RCW 7.105.410).

386.10 STANDARD FOR ARREST

When a deputy has confirmed that a valid extreme risk protection order exists and has probable cause to believe the person has knowledge of the order and violated that order, the deputy shall make an arrest and take the person into custody (RCW 10.31.100).

386.11 ORDERS TO SHOW CAUSE

When the Office receives notice from the court of an order to show cause, the Detective Division supervisor should consult with legal counsel, as appropriate, to address any requirements involving the Office, including the following (RCW 7.105.340):

- (a) Fulfilling any additional service requirements for the order to show cause
- (b) Providing the court a complete list of firearms surrendered by the person pursuant to the extreme risk protection order that are in the possession of the Office
- (c) Providing the court with verification that any concealed pistol license was surrendered by the person pursuant to the extreme risk protection order and that the agency with authority to revoke the license has been notified
- (d) Filing an affidavit with the court where there is reasonable suspicion that the person who is subject to the extreme risk protection order is not in full compliance with the terms, including the basis for the belief