

**GENERAL ORDERS MANUAL
WESTERN MICHIGAN UNIVERSITY
DEPARTMENT OF PUBLIC SAFETY**

I. PURPOSE

The Michigan legislature has passed Act 38 of 2023 called the Extreme Risk Protection Act. The law requires courts to issue an Extreme Risk Protection Order (ERPO) if the court determines, by the preponderance of the evidence, that the person subject to the order can reasonably be expected within the near future to intentionally or unintentionally seriously physically injure themselves, or another individual by possessing a firearm, and has engaged in an act or acts or made significant threats that are substantially supportive of the expectation. This policy is designed to provide guidance and an understanding of the law, the processes, and the department's duties as required.

The purpose of this policy is to establish guidelines for the response, seizure, safe keeping, and return of firearms related to Extreme Risk Protection Orders.

II. POLICY

It is the policy of the Western Michigan University Police Department to petition for and serve Extreme Risk Protection Orders (ERPO) in compliance with this policy and state law, and to properly account for prohibited items obtained by the Western Michigan University Police Department pursuant to such orders.

The preservation of life and safety of the community shall remain our priority. All members shall be aware that the duty to enforce these orders may result in increased contact with armed individuals who are experiencing a crisis and may be unwilling to relinquish their firearms or resist officers' actions. ERPO's may increase the risk of harm to officers, the respondent, or individuals with the respondent. Therefore, it is critical to conduct safety assessments when deciding on tactical strategies for the confrontation and enforcement of an ERPO issued against restrained individuals.

III. DEFINITIONS

- A.** Extreme Risk Protection Order – An order prohibiting a named person from possessing prohibited items.
- B.** Petition – A summons and complaint filed with the court consistent with MCL 691.1805.
- C.** Respondent - The individual against whom an ERPO is issued and who a court has determined, by the preponderance of the evidence, that the person subject to the order can reasonably be expected within the near future to intentionally or unintentionally seriously physically injure themselves, or another individual.
- D.** Petitioner - An individual who requests an ERPO. The petitioner may be anyone having a domestic relationship with the respondent, another family member (this includes

grandparents, grandchildren, first-cousins, aunts, uncles, or guardians), health care providers (physicians, physician's assistant, nurse practitioners licensed in any state, and mental health professionals licensed in any state), and law enforcement officers in the State of Michigan.

- E.** Restrained Individual - The individual against whom an ERPO has been issued and is in effect.
- F.** Possession or Control - Includes, but is not limited to, actual possession or constructive possession by which the individual has the right to control the firearm, even though the firearm is in a different location than the individual. Possession or control does not require the individual to own the firearm.

IV. CONSIDERATIONS FOR SEEKING AN ERPO

- A.** Members shall only submit a petition to a court to obtain an ERPO when both of the following conditions are met:
 - 1. The officer has received credible information that the respondent can be reasonably expected to intentionally or unintentionally seriously injure themselves or another person through the use of a firearm.
 - 2. The officer has credible information that the respondent has engaged in acts or made significant threats that support the expectation that they will seriously injure themselves or another person.
- B.** Officers shall not file a petition for an ERPO based solely on a person's ownership of firearms.
- C.** Officers shall consider the following factors when deciding to file a petition for an ERPO:
 - 1. Respondent's history of use, attempted use, or threatened use of physical violence against another person, with or without a firearm.
 - 2. Evidence of respondent suffering a serious mental or emotional disturbance.
 - 3. Current or previous court orders issued against the respondent, including personal protection orders, pretrial release orders, or any other injunction.
 - 4. Previous convictions or pending charges for assaultive crimes or a crime having a threat as an element.
 - 5. Recent abuse of alcohol or controlled substances by respondent.
 - 6. Evidence of respondent's acquisition or attempted acquisition of a firearm in the last six months.
 - 7. Any other evidence that tends to establish that the respondent may pose a risk of harm to another person.

V. PETITION GUIDELINES

- A.** Officers shall obtain approval from their supervisor prior to submitting a petition for an ERPO to a court. Supervisors shall ensure petitions comply with the requirements of this policy, court rules, and the Extreme Risk Protection Order Act.
- B.** Non-emergency petitions
 - 1. For each non-emergency petition, members shall complete the Confidential Information Form (Form 450) and either the Complaint for ERPO (Adult) Form or the Complaint for ERPO (Minor) Form.
 - 2. Each form shall be completed with as much detail as possible to assist the court in determining whether an ERPO should be issued.
 - 3. Officers shall submit the required forms to the Family Division of the Circuit Court, or other court as required by local court procedure.
- C.** Emergency petitions
 - A.** Officers may seek an emergency petition (Immediate Emergency Ex Parte ERPO) only when all of the following conditions have been met:
 - 1. The officer has obtained supervisor approval,
 - 2. When the member is responding to a call for service involving the respondent and the member obtains information indicating the respondent can be reasonably expected to intentionally or unintentionally seriously injure themselves or another person through the use of a firearm,
 - 3. Immediate removal of firearms from the respondent is reasonably necessary to protect the safety of any person, and
 - 4. No other alternatives are available to prevent the respondent from possessing firearms (e.g., arrest, protective custody).
 - B.** Officers shall seek an emergency ERPO telephonically by contacting the on-call judge consistent with local court policy.
 - C.** If an emergency ERPO has been issued, the member obtaining the ERPO shall, within one business day, file a Sworn Written Petition After Emergency ERPO Form with the court having issued the ERPO, a Confidential Information Form, and a Proof of Service Form, if the ERPO was served with oral notice to the respondent.

VI. ERPO SEARCH WARRANTS

1. If an ERPO is issued for immediate surrender of firearms, it shall also be issued with an anticipatory search warrant subject to and contingent on the failure to comply or refusal of the respondent following service of the order.
2. Such search warrants shall be sought by filing an Affidavit for ERPO Anticipatory Search Warrant and an ERPO Anticipatory Search Warrant with the court. These affidavits and warrants are subject to the same probable cause and specificity requirements as for all other search warrants.
3. Like other search warrants, it is necessary to prepare a tabulation of all items seized, and to provide a copy of the search warrant and the tabulation to the person from whom the seizure occurred, or if the individual is not present, then leave a copy of the search warrant and tabulation at the place from which the property was taken (in a conspicuous place). The tabulation shall be promptly filed with the court.
4. No forced entry into a residence is allowed, unless exigent circumstances are present, without an authorized search warrant.

VII. NON-COMPLIANT PERSONS

1. In the event Western Michigan University Police attempts to serve an ERPO, either by order sent from the court, or by an immediate surrender order, and the person is non-complaint the following actions may be applied. The options should be reviewed by a command officer, if possible.
 - a. Only under extreme exigent circumstances, and with supervisor approval, should forced entry into a residence be used. Considerations such as the number of officers present, other persons in the residence, and the risk of harm to all involved should be heavily weighed before forcing entry.
 - b. Officers may seek a complaint/warrant requesting a charge of violation of the ERPO law, as well as a contempt of court request. This should be treated the same as an "in-custody" charge and presented the next day for charges with all priority notices put in place. This is the preferred method of handling a non-compliant issue.
 - c. Other measures such as attempts to lure the person out of the residence will be evaluated on a case-by-case basis. Usually, continued surveillance would not be put in place.

VIII. RELEASE OF PROHIBITED ITEMS

1. Any person requesting the release of any prohibited items in Western Michigan University Police Department custody pursuant to an ERPO should be referred to the Evidence Lieutenant.
2. If a request for release of items is received by the Evidence Lieutenant, verification will be made to ensure proper paperwork authorizing the release is signed and dated. Any discrepancies will need to be clarified by the ERPO Coordinator.
3. A further check through LEIN/CCH will be conducted prior to the items being released.
4. Upon expiration of an ERPO, if the respondent does not make a claim within 90 days to have the firearm returned, the firearm will be marked for disposal under MCL 750.239(a).

IX. RENEWAL OF ERPO

1. The Operations Lieutenant is responsible for the review of any ERPO obtained by the Western Michigan University Police Department to determine if renewal or extension of the order should be requested (MCL 691.1817).

X. ERPO COORDINATOR

1. The operations Lieutenant is assigned as the ERPO coordinator. The responsibilities of the coordinator include:
 - a. Developing and maintaining procedures for the receipt and service of orders.
 - b. Ensure officers have access to local court policies related to ERPOs.
 - c. Ensure officer have access to contact lists and schedules for on-call judges in order to obtain an emergency ERPO when necessary.

XI. ERPO FORMS

1. The ERPO manual and all required court ERPO forms are available in PowerDMS under Plans, Forms and Memos.

Issued Date: 03/13/2024

Issued by



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