EXTREME RISK PROTECTIVE ORDER

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I. PURPOSE

Extreme Risk Protective Orders (ERPO) are meant to prohibit a Respondent from possessing a firearm where there is sufficient information to believe that the Respondent poses an **IMMEDIATE** and **PRESENT DANGER** of causing personal injury to the Respondent, the Petitioner, or another individual by possessing a firearm. The purpose of the ERPO is to reduce gun deaths and injuries by restricting a Respondent's access to firearms and ammunition.

A petition for or the issuance of the ERPO does not in any way affect the ability of law enforcement to remove or seize firearms and/or ammunition from any person or property as permitted by any other law.

II. DEFINITIONS

A. Extreme Risk Protective Order (ERPO)

A civil Interim, Temporary, or Final Protective 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.

B. Ammunition

A cartridge, shell, or any other device containing explosive or incendiary material designed and intended for use in a firearm.

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

An individual who files a petition for an Interim, Temporary or Final ERPO. A Petitioner may be any one of the following:

1. 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. Respondent
A person against whom a petition for an ERPO is filed.

F. Possessing a Firearm and Ammunition
Where the Respondent has firearms and/or ammunition within his/her control; this includes those firearms and ammunition where the Respondent has access to or is within his/her easy reach. Possession also includes firearms and ammunition in other locations inside and outside of the Respondent's residence and where the Respondent may not be the owner of the property but the circumstances show that the Respondent has reasonable control or possessory interest over the firearms and/or ammunition.

G. Petition for Emergency Evaluation
Where the officer has personally observed an individual or their behavior, and has reason to believe the individual has a mental disorder and the individual presents a danger to the life or safety of the individual or of others, the officer may file a petition for an emergency evaluation.

H. Interim ERPO
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. The Extreme Risk Protective Interim Order requires the Respondent to surrender to law enforcement authorities any firearm and ammunition in the Respondent's possession; and prohibits the Respondent from purchasing or possessing any firearm or ammunition for the duration of the Interim Order. An Interim ERPO may include a referral from the commissioner to law enforcement for a determination of whether the Respondent should be taken for an emergency evaluation. An Interim ERPO shall be effective until the earlier of the Temporary ERPO hearing or the end of the second business day the office of the District Court clerk is open following the issuance of the Interim ERPO.

I. Temporary ERPO
When the District Court is open, a Petitioner can file a petition with the District Court for the issuance of an ERPO. A hearing will be held and if the Temporary ERPO is issued by a District Court judge, it requires the Respondent to surrender to law enforcement authorities any firearm and ammunition in the Respondent's possession; and prohibits the Respondent from purchasing or possessing any firearm or ammunition for the duration of the Temporary Order. A Temporary ERPO may include an order from the District Court judge for an emergency evaluation of the Respondent. A Temporary ERPO shall be effective for not more than seven (7) days after service of the Order unless extended by the judge or in the event the Order expires when the court is closed, the Order shall be effective until the second day on which the court is open.

J. Final ERPO
After a hearing on a petition for the issuance of a Final ERPO, an Order may be issued by a District Court judge requiring the Respondent to surrender to law enforcement authorities any firearms and ammunition in the Respondent's possession; and prohibits the Respondent from purchasing or possessing any firearm or ammunition for the duration of the Order. A final ERPO shall be valid for a period stated in the Order not to exceed one year unless superseded by a Circuit Court judge's order or the Order is modified, rescinded, or for good cause shown, or extended for 6 months beyond the period specified.

K. 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 the respondent, the petitioner, or another individual by possessing a firearm.

III. ISSUANCE FACTORS

Factors used by the Court or Commissioner in Determining whether the Issuance of an ERPO is Appropriate:

A. Any information known to the Petitioner that the Respondent poses an **immediate** and **present danger** of causing personal injury to the Respondent, the Petitioner, or another person by possessing a firearm and any specific facts in support of this information;

B. The Petitioner's basis of knowledge of supporting facts, including a description of the behavior, statements of the Respondent or any other information that led the Petitioner to believe that the Respondent presents an **immediate** and **present danger** of causing personal injury to the Respondent or another person;

C. A description of the number, types, and location of any known firearms believed to be possessed by the Respondent;

D. Any supporting documents or information regarding:

1. Any unlawful, reckless, or negligent use, display, storage, possession, or brandishing of a firearm by the Respondent;

2. Any act or threat of violence the Respondent made against the Petitioner or against another person, whether or not the threat of violence involved a firearm;

3. Any violation by the Respondent of a Protective Order under Title 4, Subtitle 5 of the Family Law Article;

4. Any violation by the Respondent of a Peace Order under Title 3, Subtitle 15 of the Courts Article;

5. Any abuse of a controlled dangerous substance or alcohol by the Respondent, including any conviction for a criminal offense involving a controlled dangerous substance or alcohol; and

6. Where disclosure is permitted or not otherwise prohibited by law, any health records or other health information concerning the Respondent.

IV. RESPONSE

A. Emergency Evaluations:

Where an officer files a petition for an emergency evaluation and the officer has reasonable grounds to believe that the evaluee poses an **immediate and present danger** of causing personal injury to himself or other persons by possessing a firearm, the officer should, in most cases, consider the need for an ERPO and follow the instructions below.

B. Domestic and other types of calls for police assistance:

Where an officer is on a scene and either the officer personally observes behavior that would lead the officer to conclude that he has **reasonable grounds** that an individual poses an **immediate** and **present danger** of causing personal injury to himself/herself or to other persons by possessing a firearm, or where an officer does not personally observe this behavior, but the officer is receiving information to conclude that he has **reasonable grounds** that an individual poses an **immediate and present danger** of causing personal injury to himself/herself or to other persons by possessing a firearm, an ERPO will be applied for. The officer will request a supervisor respond to the scene to coordinate appropriate follow-up. The supervisor will request a District Detective to respond to the scene. The District Detective will be responsible for filing a petition for an ERPO. When completing the petition, the District Detective must notify the commissioner or judge if the respondent was already transported to the hospital on an officer written emergency evaluation at the initial call for service. This will be noted on the petition and verbally explained to the commissioner or judge.

C. The primary patrol officer will complete the original incident report related to the initial incident. The District Detective will be responsible for submitting a supplement report describing their actions in obtaining the ERPO, serving the ERPO, and any other investigative details. All court documents ***must be scanned and added as an attachment to the Supplement Report.***

D. Officers/Detectives who are investigating cases where the issuance of an ERPO may be appropriate should make a good faith effort to secure firearms and ammunition in the Respondent's possession during the original call for service. This action should result in an effort to eliminate the potential harm and the need to secure the weapons and ammunition at a later time should an ERPO be issued.

E. If an Interim ERPO is issued by a Court Commissioner, the District Detective will encourage any witnesses to attend the Temporary ERPO hearing to testify. The District Detective will be responsible for subpoenaing and serving witnesses (non-police officers) for a Final ERPO Hearing. The District Detective will present a completed DC-004 to the Court Clerk, immediately after a Temporary ERPO Hearing. The Court Clerk will sign/stamp the form, and the District Detective will take the subpoena with them. The District Detective will then serve the subpoena on any witness. The District Detective will then complete the return of service and return the copy to the Court.

V. COURT ORDER SERVICE

A. Serving a Temporary ERPO Issued by a Judge

1. When in possession of a Temporary ERPO, or upon learning of an unserved Temporary (including orders issued by another jurisdiction), our agency will attempt to make immediate service when possible. A patrol supervisor will be notified anytime an ERPO needs to be served and will be present during the service. Whenever feasible, the supervisor will have a District Detective conduct a background investigation, including interviewing the petitioner, collecting criminal history and intelligence data (ie. prior calls for service at residence or prior residences of the petitioner), and contacting the Maryland Gun Center regarding registered firearms belonging to the respondent, prior to serving the ERPO. The supervisor will ensure that the proper background investigation has been completed and will decide on how to safely serve the ERPO, including the number of officers needed for service. Attempts at service should always be approached with the same level of caution as a domestic disturbance. Due to the emotionally charged issues at hand, the potential for violence is particularly high. Officers should expect that a court ordered emergency evaluation may accompany the Temporary ERPO, if a law enforcement officer was not the petitioner. The ERPO itself does not provide law enforcement the legal authority to take a respondent into custody for an emergency evaluation unless accompanied by a separate court ordered emergency evaluation.

2. Upon serving the ERPO, the supervisor must ensure the respondent is asked if her/she has any firearms and/or ammunition. If the respondent voluntarily surrenders any firearms and/or ammunition to the officers, the officer***s*** must accept the firearm(s). If the respondent admits they do have firearms/ammunition in their immediate possession or the officer has probable cause to believe that the respondent has firearms and/or ammunition in their immediate possession, but the respondent refuses to surrender them, the supervisor will advise the respondent that they are subject to arrest for violation of the ERPO. If the respondent still refuses to surrender the firearm and/or ammunition, officer***s*** will arrest the respondent for the violation of the ERPO. If no other individual has legal authority to give consent to the officer***s*** and allow officers access into the home or other location to secure any firearms and/or ammunition, the supervisor will have the District Detective file for a search warrant for the residence (See Index Code 1621).

3. Officers coming into possession of firearms and/or ammunition in accordance with the above shall at the time of surrender or seizure:

a. Issue a Firearms/Ammunition Receipt (PD 1201.2A) to the Respondent identifying the make, model, and serial number of all firearms seized or surrendered;

b. Complete an Offense/Incident Report using Incident Type, "Court Order (Service Of)"; (or a Supplement Report if the Offense/Incident Report related to the offense/incident has previously been submitted), including describing the firearm by make, model, serial number, caliber, and any other identifying characteristics on the Property Card side panel of the report. The name

and address of the owner will be included in addition to the person the firearm was in possession of when recovered, if different from the owner. The Offense/Incident Report must be submitted to the records management system prior to the end of the officer's shift.

The Reason for Police Custody, "SAFEKEEPING – ERPO (Release pending order & review)" will be used on the Property Card in the records management system.

c. Submit a PDF copy of the completed Firearms/Ammunition Receipt (PD 1201.2) as an attachment to the report.

d. Submit the original copy of the receipt with the firearm(s) to Property Management; and

e. Transport and store any firearms in accordance with Index Code 1201.2

4. Once served, an officer must immediately notify the Sheriff's Office dispatcher on Channel 13A of the service, and provide the dispatcher with requested information; however, the return of service (CC-DC-ERPO-008) and return of service (CC-DC-027), if applicable, must be scanned and emailed to the Sheriff's Office before the end of the officer's tour of duty (aacoso-return-of-service@aacounty.org). Included in the return of service will be two numerical identifiers of the respondent, such as date of birth, social security number, or soundex number. If an officer serves a complainant's copy of an ERPO on a respondent, and there is no original Return of Service form(s) to be scanned and emailed to the Sheriff's Office, a blank RETURN OF SERVICE form (CC-DC-ERPO-008) and Return of Service Form (CC-DC-027), if applicable, must be completed and scanned/emailed. A supply of these blank forms will be maintained at each district station.

5. The return of service(s) will be put in the return of service logbook.

B. Serving an Interim ERPO Issued by a District Court Commissioner After Normal Court Hours

The following procedures will outline service of Interim ERPO ***when*** no Sheriff's Deputies ***are*** on duty. Upon the issuance of an interim ERPO by the District Court Commissioner, the following will occur:

1. The Sheriff's Office will be notified that an order has been issued.

2. The Sheriff's Office will email a copy of the order to the appropriate district where the respondent would be served. The Sheriff's Office will also contact Teletype to make sure that appropriate district personnel are notified (desk officer, patrol supervisor, etc).

3. The Desk Officer will log the information, time received, and the time that a supervisor is notified of the existence of the Interim ERPO in the Interim Protective Order Log.

4. The Desk Officer will notify a patrol supervisor of the order, if they already haven't been notified by Teletype.

5. When in possession of an Interim ERPO, or upon learning of an unserved Interim ERPO (including orders issued by another jurisdiction), our agency will attempt to make immediate service when possible. Whenever feasible, the patrol supervisor will have a District Detective conduct a background investigation, including interviewing the petitioner, collecting criminal history and intelligence data (ie. prior calls for service at residence or prior residences of the petitioner), and contacting the Maryland Gun Center regarding registered firearms belonging to the respondent, prior to serving the ERPO. The supervisor will ensure that the proper background investigation has been completed and will decide on how to safely serve the ERPO, including the number of officers needed for service, and will be present during the service. Attempts at service should always be approached with the same level of caution as a domestic disturbance. Due to the emotionally charged issues at hand, the potential for violence is particularly high. The officer will additionally serve any summons or warrant issued. Officers must also pay close attention to the ERPO for the block titled "Referral to Law Enforcement for Determination for Emergency Evaluation." If this block is checked, officers must determine if an Emergency Evaluation of the respondent is also appropriate.

6. Upon serving the ERPO, the supervisor must ask the respondent if her/she has any firearms and/or ammunition. If the respondent voluntarily surrenders any firearms and/or ammunition to the officers, the officers must accept the firearm(s). If the respondent admits they do have firearms/ammunition in their immediate possession or the officer has probable cause to believe that the respondent has firearms and/or ammunition in their immediate possession, but the respondent refuses to surrender them, the supervisor will advise the respondent that they are subject to arrest for violation of the ERPO. If the respondent still refuses to surrender the firearm and/or ammunition, officer***s*** will arrest the respondent for the violation of ERPO. If no other individual has legal authority to give consent to the officer***s*** and allow officers access into the home or other location to secure any firearms and/or ammunition, the supervisor will have the District Detective file for a search warrant for the residence (See Index Code 1621).

7. Officers coming into possession of firearms and/or ammunition in accordance with the above shall at the time of surrender or seizure:

a. Issue a Firearms/Ammunition Receipt (PD 1201.2A) to the Respondent identifying the make, model, and serial number of all firearms seized or surrendered;

b. Complete an Offense/Incident Report using Incident Type, "Court Order (Service Of)"; (or a Supplement Report if the Offense/Incident Report related to the offense/incident has previously been submitted), including describing the firearm by make, model, serial number, caliber, and any other identifying characteristics on the Property Card side panel of the report. The name and address of the owner will be included in addition to the person the firearm was in possession of when recovered, if different from the owner. The Offense/Incident Report must be submitted to the records management system prior to the end of the officer's shift.

The Reason for Police Custody, "SAFEKEEPING – ERPO (Release pending order & review)" will be used on the Property Card in the records management system.

c. Submit a PDF copy of the completed Firearms/Ammunition Receipt (PD 1201.2) as an attachment to the report.

d. Submit the original copy of the receipt with the firearm(s) to Property Management; and

e. Transport and store any firearms in accordance with Index Code 1201.2

8. Once served, an officer must immediately notify the Sheriff's Office dispatcher on Channel 13A of the service, and provide the dispatcher with requested information; however, the return of service (CC-DC-ERPO-008) must be scanned and emailed to the Sheriff's Office by the end of the officer's tour of duty (aacoso-return-of-service@aacounty.org). Included in the return of service will be two numerical identifiers of the respondent, such as date of birth, social security number, or soundex number. If an officer serves a complainant's copy of an interim ERPO on a respondent, and there is no original Return of Service form to be scanned and emailed to the Sheriff's Office, a blank RETURN OF SERVICE form (CC-DC-ERPO-008) must be completed and scanned/emailed. A supply of these blank forms will be maintained at each district station.

9. The return of service will be put in the return of service logbook.

10. In situations where service cannot be made, the officer will complete a return of service indicating that the service was not made, and any pertinent information regarding the attempt(s). The return of service must be scanned/emailed to the Sheriff's Office by 0600 hours. The officer will then shred all documentation at that time.

VI. PROTECTIVE/PEACE ORDER DATABASE

The use of the Maryland Protective/Peace Order application is strictly for official and law enforcement purposes only. The Maryland Protective/Peace Order Search may be found at http://jportal.mdcourts.gov. An officer must have access to Jportal to query the Protective/Peace Order Database. The Protective/Peace Order Database can be utilized to review conditions of an ERPO if the petitioner or respondent does not have a copy. Officers have the ability to print a copy of the ERPO if needed.

VII. ENFORCEMENT

Officers **shall arrest** with or without an arrest warrant any person whom the officer has probable cause to believe is in violation of an Interim, Temporary, or Final ERPO in effect at the time of the violation. Where officers have probable cause to believe that the Respondent is in possession of firearms and/or ammunition and after giving proper notice, the Respondent refuses to surrender the firearms and/or ammunition, officers shall arrest the Respondent for violating the ERPO.

VIII. COURT ATTENDANCE

District Detectives who apply for Interim or Temporary ERPO will be required to attend the court proceeding(s). They will also have to attend a Final ERPO hearing. Officers who personally observe behavior leading to an ERPO will also be required to attend a Final ERPO hearing, unless circumstances prevent it and approved by a supervisor. The Detective will email witness police officers ahead of the scheduled hearing and request they attend. The commander of the witness officer will be cc'd on the email. The commander will enter the information into the "Officer's Summons Log". The email will be sufficient for overtime purposes.

IX. RELEASE OF FIREARMS

Upon the expiration or termination of an ERPO, Property Management shall:

A. Notify the respondent that they may request the return of the firearms and/or ammunition.

B. Before releasing firearms and/or ammunition to the Respondent, verify that the Respondent is not otherwise prohibited from possessing firearms and/or ammunition per Index Code 1201.2.

C. On request of the Respondent who is not otherwise prohibited from possessing firearms and/or ammunition, Property Management shall return the firearms and/or ammunition to the Respondent no later than:

1. 14 days after the expiration of an Interim or Temporary Order;

2. 14 days after the court terminates a Final Order; or

3. 48 hours after the expiration of the Final Order.

D. A Respondent who does not wish to recover firearms and/or ammunition or who is otherwise prohibited from possessing firearms and/or ammunition may sell or transfer the firearms and/or ammunition to:

1. A Federal Firearms Licensed Dealer (the FFL must provide written proof that the Respondent has agreed to transfer the firearms and/or ammunition to the dealer and this Agreement must be verified with the Respondent and the verification documented in writing);

2. Via a Federal Firearms Licensed Dealer, to another person who is not prohibited from possessing the firearms and/or ammunition under State and/or Federal Law and who does not reside in the same residence as the Respondent (the person must provide written proof that the Respondent has agreed to transfer the firearms and/or ammunition to the person and the Agreement must be verified with the Respondent and the verification documented in writing); or

3. Request the Police Department to destroy the firearms and/or ammunition.

E. If an individual other than the Respondent claims ownership of a firearm and/or ammunition surrendered or seized as a result of an ERPO, Property Management shall only release the firearm and/or ammunition to the individual if:

1. The individual provides proof of ownership of the firearm and/or ammunition; and

2. Property Management determines the individual is not otherwise prohibited from possessing the firearm and/or ammunition per Index Code 1201.2.

D. In the event a firearm and/or ammunition is not reclaimed within 6 months after the notice to a Respondent as required no party shall have the right to assert ownership of the firearm or ammunition and Property Management may destroy the firearm and/or the ammunition.

X. REPORT REQUIREMENTS

An Offense/Incident report (or a Supplement Report if the Offense/Incident Report related to the offense/incident has previously been submitted) will be written in all cases where an ERPO is served by a member of this agency. This includes service of an ERPO where an officer/detective is the petitioner as described in Section IV. C. above. If an officer is serving an ERPO from the Court or Court Commissioner, where a member of this agency is not the petitioner, the Offense/Incident report Incident Type will be, "Court Order (Service Of)."

XI. PENALTIES

Violating an Interim, Temporary, or Final ERPO may result in a conviction, a fine up to $1,000 and imprisonment up to 90 days, or both, for a first offense, or a fine up to $2,500 and imprisonment up to one (1) year for a second offense, or both.

XII. PROPONENT UNIT: Bureau of Patrol.

XIII. CANCELLATION: This directive cancels Index Code 1603.4, dated ***11-15-21***.