

Extreme Risk Protection Orders

340.1 PURPOSE AND SCOPE

Best Practice

The purpose of this policy is to provide guidelines for applying for and serving extreme risk protection orders, and accounting for firearms obtained pursuant to those orders.

340.1.1 DEFINITIONS

State MODIFIED

Definitions related to this policy include:

Extreme risk protection order - An order of protection prohibiting a named person from purchasing, possessing, or attempting to purchase or possess a firearm, rifle, or shotgun (CPLR § 6340; CPLR § 6342; CPLR § 6343).

Prohibited items - Firearms, rifles, or shotguns that are prohibited by an extreme risk protection order (CPLR § 6340).

Petitioner – District Attorneys, police officers, family or household members, and school administrators may make an application for an ERPO (CPLR § 6340).

Respondent – The person against whom an ERPO is or may be sought (CPLR § 6340).

Possess – As defined in subdivision eight of section 10.00 of the NYS Penal Law (CPLR § 6340).

Likelihood to result in serious harm - Substantial risk of physical harm to himself, as manifested by threats of, or attempts at suicide or serious bodily harm or other conduct, demonstrating that he is dangerous to himself; or, substantial risk of physical harm to other persons, as manifested by homicidal or other violent behavior by which others are placed in reasonable fear of serious physical harm (MHY § 9.39 (a)(1) and (2)).

340.2 POLICY

Best Practice

It is the policy of the Syracuse to apply for and serve extreme risk protection orders in compliance with state law, and to properly account for prohibited items obtained by the Department pursuant to such orders.

340.3 EXTREME RISK PROTECTION ORDERS

Best Practice MODIFIED

An officer who reasonably believes that an extreme risk protection order is appropriate shall obtain supervisor approval prior to seeking an order.

340.3.1 STANDARDS

State

Syracuse Police Department

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Extreme risk protection orders may be appropriate when there is probable cause to believe the respondent is likely to engage in conduct that would result in serious harm to him/herself or others (CPLR § 6342; CPLR § 6345).

340.3.2 REQUIREMENTS OF APPLICATION

State MODIFIED

An application for an extreme risk protection order should be prepared consistent with state law and the procedures developed by the extreme risk protection order coordinator (CPLR § 6341; CPLR § 6342).

[See procedure for COMPLETING AND FILING A PETITION](#)

340.4 SERVICE

State MODIFIED

Officers who receive an extreme risk protection order for service shall serve a copy of the order, along with any accompanying notice of hearing and associated documents, when directed by the court, on the person named in the order as soon as practicable. Service of orders should take precedence over the service of other orders, except for orders of a similar emergency nature (CPLR § 6342).

[See procedure for SERVICE OF ORDERS](#)

340.4.1 SAFETY CONSIDERATIONS

Best Practice MODIFIED

When appropriate, based on the circumstances and department procedures, service of orders shall be executed pursuant to the Operations Planning and Deconfliction Policy.

In no circumstances shall fewer than two officers be present when an order is being served.

340.4.2 SURRENDER OF PROHIBITED ITEMS

State MODIFIED

Officers serving an extreme risk protection order shall request that the named person immediately surrender all prohibited items as required by the order. Officers should take custody of any items surrendered pursuant to the order or discovered either in plain sight or pursuant to a lawful search (CPLR § 6342; CPLR § 6343).

A receipt identifying all surrendered or seized items shall be prepared by the officers and a copy given to the person (CPLR § 6344). The officers should ensure the original receipt is included in the original case report and forwarded to the Records Division as soon as practicable.

All items collected should be handled and turned in accordance with the Property Division Policy and the procedures outlined above.

340.4.3 SEARCH WARRANTS

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Officers should consider whether a search warrant may be reasonably necessary prior to attempting service of an order.

Consideration should also be given to whether a search warrant is necessary after an extreme risk protection order has been served if an officer reasonably believes there are prohibited items within the respondent's custody, control, or possession that have not been surrendered or seized.

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

340.5 RELEASE OF PROHIBITED ITEMS

Best Practice MODIFIED

Any person requesting the release of any prohibited items in department custody pursuant to an extreme risk protection order should be referred to the Property Division.

[See procedure for RELEASE OF FIREARMS SEIZED OR SURRENDERED PURSUANT TO ERPO](#)

340.6 RENEWAL OF EXTREME RISK PROTECTION ORDER

State MODIFIED

The Onondaga County District Attorney's Office is responsible for the review of any extreme risk protection order obtained by the Department to determine if renewal or extension of the order should be requested within the time prescribed by law (CPLR § 6345).