

Oakland County Sheriff's Office
General Order # 3.26



SUBJECT: Extreme Risk Protection Order (ERPO)		NUMBER: 3.26
EFFECTIVE DATE: 7/30/2026 REVIEW DATE: Annually		MACP Standard Impact: N/A
RESCINDS AND REPLACES: General Order 51 dated 2/15/2025	DISTRIBUTION: All Personnel	NUMBER OF PAGES: 4

This order rescinds all previously issued orders, procedures, rules and regulations, notices and/or practices in conflict with this General Order.

I. PURPOSE

The purpose of this policy is to ensure compliance with Michigan's Extreme Risk Protection Order Act (MCL 691.1801 – MCL 691.1821).

II. POLICY

The Oakland County Sheriff's Office will enforce the Extreme Risk Protection Order Act as required by law. This policy sets forth the procedures deputies must use when requesting an Extreme Risk Protection Order, processing and serving an Extreme Risk Protection Order, facilitating surrender or seizure of firearms to comply to an Extreme Risk Protection Order, and safekeeping and returning the firearms.

III. DEFINITIONS

- A. *Extreme Risk Protection Order ("ERPO")* – A court order entered under the Extreme Risk Protection Order Act to prohibit a person from possessing or purchasing firearms and ordering the surrender and seizure of the person's firearms. The ERPO is based on a reasonable expectation that the respondent, within the near future will intentionally or unintentionally seriously physically injure himself, herself, or another individual by possessing a firearm, and because immediate and irreparable injury, loss, or damage will result from the delay required to effectuate notice or that the notice will itself precipitate adverse action before an order can be issued.

IV. PROCEDURES

A. ERPO Administrative Procedures

1. The Oakland County Sheriff's Office shall follow current Sixth Circuit Court procedures when preparing and submitting ERPO documentation.
2. Deputies initiating an ERPO shall:
 - a. Utilize current State Court Administrative Office (SCAO) approved forms.

Oakland County Sheriff's Office
General Order # 3.26

- b. Submit ERPO documentation through court-approved submission methods, including electronic submission systems when available.
- c. Ensure documentation is submitted within statutory and court-required timelines.
- d. Ensure confidential and personally identifiable information is properly protected or redacted when appropriate prior to submission.
- e. Follow current Sixth Circuit Court ERPO Job Aid procedures located on the Sheriff's Office document system.

B. Sheriff's Office Deputies - Petitioning the Circuit Court Family Division for an ERPO

1. Deputies may petition the Oakland County Circuit Court Family Division for an ERPO after discussing and receiving **approval thru the chain of command from a lieutenant or higher rank**. However, if the person is a minor, the petition must be filed in the Circuit Court where the minor resides.
 - a. If you are completing a written petition, you must use the Complaint for Extreme Risk Protection Order, adult respondent form (CC 452) or the Complaint for Extreme Risk Protection Order, Minor Respondent form (CC 452M)
 - b. You must also complete the Confidential Information form (CC 450).
 - c. Submit a proposed Immediate Emergency Ex Parte Extreme Risk Protection Order (CC 454).
 - d. Deputy Shall complete the Premise Alert and forward to the Emergency Communications and Operations Division for entry for ALL ERPO.
2. The petition must show that:
 - a. The person can reasonably be expected in the near future to intentionally or unintentionally **seriously physically injure themselves or another by possessing a firearm**, and
 - b. The person has **acted** in a manner or made significant threats that **substantially supports** the above expectation.
3. A petition may be filed even if the person does not actually possess firearms because it prevents them from possessing or attempting to purchase firearms in the future.
4. The petition must include all relevant information that the Court is required to consider before granting an ERPO, such as:
 - a. Any history of use, attempted use, or threatened use of physical force by the person, regardless of whether it involved a firearm.
 - b. Any evidence of the person having a serious mental illness or emotional disturbance that makes the person dangerous to themselves or others.

Oakland County Sheriff's Office
General Order # 3.26

- c. Any of the following orders against the respondent, whether previously entered or existing:
 - i. An extreme risk protection order, and if so any violations.
 - ii. A personal protection order, and if so any violations.
 - iii. A pretrial release order.
 - iv. A probation or parole order.
 - v. Any other injunctive order.
 - d. Prior convictions or pending criminal charges, or previous or pending juvenile delinquency petitions, for the commission or attempted commission of any of the following offenses:
 - i. Assault and battery.
 - ii. A stalking/harassment conviction.
 - iii. An offense that has assault as an element.
 - iv. An offense that has an element including a threat to person or property.
 - v. An offense committed against a spouse or intimate partner, including but not limited to domestic violence.
 - vi. An offense involving cruelty or abuse of animals.
 - vii. Any of the "serious misdemeanors" defined in MCL 780.811.
 - viii. Any evidence of recent unlawful use of controlled substances by the respondent.
 - ix. Any recent abuse of alcohol.
 - e. Any previous unlawful possession, use, display, or brandishing of a deadly weapon by the respondent.
 - f. Any evidence of an acquisition or attempted acquisition within the previous 180 days by the respondent of a deadly weapon or ammunition.
 - g. Any statement(s) by the person, or relevant information from others, concerning the respondent.
5. Deputies shall ensure documents submitted to the court do not contain unnecessary personally identifiable information. When submitting supporting documentation, deputies shall redact sensitive identifiers including:
- a. Social Security numbers
 - b. Driver license numbers
 - c. Dates of birth (when not required)
 - d. Financial account information
 - e. Medical information
 - f. Other protected personal identifiers
6. Deputies shall ensure submitted documentation complies with court privacy requirements.
7. Deputies should select the method based on urgency and risk assessment.
- a. Types of ERPO Requests
 - i. **Emergency Verbal Request** – Used when immediate danger exists.

Oakland County Sheriff's Office
General Order # 3.26

- ii. **Written Ex-Parte Request** – Used when a court decision is needed within one business day.
- iii. **Written Request with Hearing** – Used when circumstances allow a scheduled hearing.

C. Requesting an Emergency Verbal ERPO

- 1. If the need for an ERPO is an emergency, after contacting their immediate supervisor and their division lieutenant through the chain of command.
 - a. During business hours (Monday-Friday, 8:30 am to 4:30 pm), call (248) 858-0582. Select any prompt to speak with a County Clerk who will open a case and get a judge assigned.
 - b. During non-business hours, holidays, and weekends, call (248) 858-4003 to reach the ERPO duty judge.
- 2. Deputies assigned a body camera must record the verbal request with the judge using the body camera and flag the recording to save it. Deputies must advise the judge that the conversation is being recorded.
- 3. Deputies shall be prepared to provide sworn testimony supporting the ERPO request.

D. If the verbal petition is granted, personnel shall submit the Sworn Written Petition After Immediate Emergency Ex Parte ERPO (CC455) and all required ERPO documentation to the Oakland County Circuit Court Clerk within one (1) business day through the approved ERPO submission process.

- 1. Electronic submission should be used when available.
- 2. Courts will set a **hearing** unless immediate and irreparable injury, loss, or damage will result from giving notice or a delay.

E. If the Court sets a hearing, the deputy must attend the hearing and explain at the hearing the need for the ERPO.

- 1. If a Court **grants** the request for an ERPO, it will order the person to either immediately surrender the firearm(s) (and concealed pistol license, if applicable) or surrender within 24 hours.
- 2. If the Court orders immediate surrender, it will issue an **anticipatory search warrant** if the following is met:
 - a. Deputies must submit an **Affidavit for Anticipatory Search Warrant Extreme Risk Protection Order form CC 458a**, requesting that the Court issue a search warrant to search the location(s) where the firearm(s) or concealed pistol license is believed to be and to seize any firearm(s) or concealed pistol license discovered during the search in compliance with MCL 780.651 to 780.659. Your affidavit may include affirmative allegations contained in the complaint/verbal petition.

Oakland County Sheriff's Office
General Order # 3.26

- b. An anticipatory search is subject to and contingent on the failure or refusal of the person, following service of the ERPO, to immediately comply with the ERPO and immediately surrender to a law enforcement officer any firearm or concealed pistol license in the individual's possession or control.
- c. The Court will issue the anticipatory search warrant if the affidavit establishes probable cause to believe that if the respondent refuses to immediately comply with the order, there is a fair probability that the respondent's firearm(s) or concealed pistol license will be found in the location or locations to be searched. MCR 3.718(C).
- d. **Before executing an ERPO search warrant the Division Commander, or Duty Captain must be notified for approval.**
- e. Firearms subject to an ERPO must be **surrendered to a law enforcement agency**. The one exception is if the Court indicates in the ERPO that the person may surrender the firearm(s) to a Court-approved licensed firearms dealer.

F. ERPO Prohibited Conduct and LEIN Entry

- 1. An ERPO prohibits a person from purchasing and possessing a firearm. It also prohibits the person from possessing or applying for a concealed pistol license (CPL). If the person has a CPL, the CPL will be suspended or revoked automatically once the ERPO is entered into LEIN. The person is required to surrender the CPL.
 - a. **Violation of an ERPO subjects the person to immediate arrest** and 1 year imprisonment for a first violation and up to 5 years imprisonment for subsequent violations.
 - b. However, deputies **must give the person the opportunity to voluntarily comply with the ERPO** before making an arrest for violating the ERPO. (MCL 691.1815(4).)
- 2. The Court will forward all ERPOs involving a person who resides in a jurisdiction where the Sheriff's Office contracts for law enforcement services patrols to the **Command Sergeant and LEIN Operator** for LEIN/NCIC entry.
- 3. The Command Sergeant shall ensure that the LEIN Operator received the ERPO and they have been entered into LEIN/NCIC.
 - a. If the person is **not an Oakland County resident**, the Command Sergeant shall have the LEIN Operator enter the ERPO into LEIN/NCIC and immediately contact the judge who issued the ERPO, advising them that the individual is not an Oakland County resident as required by MCL 691.1809(1)(g) – the Court may amend the ERPO to reflect the correct law enforcement agency.

Oakland County Sheriff's Office
General Order # 3.26

- b. If the Court notifies the Command Sergeant that the ERPO has been served, rescinded, modified, extended, or expired, the Command Sergeant shall ensure the LEIN Operator has **updated the information in LEIN/NCIC**.
4. When a deputy receives an ERPO from a citizen, the deputy shall notify their immediate supervisor and the Command Sergeant for LEIN entry.
5. The Command Sergeant will be responsible for ensuring the proper entering, tracking, updating and removing all ERPO's from LEIN for the Sheriff's Office when advised by the court.

G. Service and Executing ERPO's or ERPO Search Warrants

1. Serving an ERPO:
 - a. If the ERPO requires immediate surrender of firearms, the ERPO must be served by a law enforcement officer.
 - b. If an ERPO has not been served, but a deputy knows one exists (via a LEIN check or otherwise) the deputy interacting with the person shall verbally serve them with the ERPO and inform them of the specific conduct prohibited, and the penalty for violating the ERPO is a felony punishable by one year imprisonment for a first violation and up to 5 years for subsequent violations. (MCL 691.1819), and where they may obtain a copy.
 - c. A deputy who serves or gives verbal notice of an ERPO must file a **Proof of Service** (form attached to order) with the Court that issued the ERPO. The deputy shall also contact the Command Sergeant to amend the LEIN entry, so it reflects service.
 - d. The personnel acting as the petitioner shall not serve the ERPO unless directed by the court. Service should be completed by another law enforcement officer or authorized individual.
2. If a deputy serves an ERPO, the deputy must allow the person to **voluntarily surrender** their firearms (and CPL, if applicable) within the time allowed in the ERPO (i.e., immediately or within 24 hours after service). If the person does not comply, the person may be arrested for violating the ERPO.
3. When the Clerk's Office notifies the Sheriff's Office that the person has not complied with the ERPO **by failing to file verification with the Court** that they surrendered their firearm(s) and CPL, if applicable, deputies must make a good-faith effort to determine if the person actually failed to surrender or whether they simply neglected to file verification.
4. As a good-faith effort, **Deputies may attempt to call the person if there is a known phone number**. If there is not a known phone number, Deputies may send a certified letter to the person's address listed in the ERPO.

Oakland County Sheriff's Office
General Order # 3.26

- a. The Court may issue a bench warrant and anticipatory search warrant (see above on anticipatory search warrant) to enforce the ERPO.
5. **A deputy through the chain of command shall notify their Division Commander and Duty Captain before executing an ERPO Search Warrant** following guidance from the Sheriff's Office General Order #3.9 Search Warrants.
6. The supervisor shall recognize officer safety concerns and high-risk of serving an ERPO and conduct an assessment of the person receiving the ERPO and the address listed on the ERPO.
 - a. The assessment shall consist of a LEIN check for person and firearms registered, CCH, CLEMIS history, IMACS, and any other available resource that can be used to assess the situation.
7. The supervisor shall look at all options and make the best determination on when and how to serve the ERPO or the ERPO search warrant.
8. The supervisor will develop an operations plan for the service of the ERPO or Search Warrant.
9. **Before executing an ERPO search warrant the division commander or duty captain must be notified for approval**

H. Seizing Firearms

1. Deputies **shall accept** firearm(s) and any CPL that a person subject to an ERPO **voluntarily surrenders**.
2. If the person does not reside in an area that the Sheriff's Office contracts with, the deputy shall contact the primary law enforcement agency for that area via LEIN message and ask if they will receive the firearms and CPL for seizure. If the agency refuses, then the Sheriff's Office will retain the property.
3. If the Court orders immediate surrender, the **deputy shall notify their supervisor** and follow the procedures listed in Section D. Requesting an Emergency Verbal ERPO.
 - a. If the person voluntarily surrenders the firearms and any CPL, deputies shall prepare a tabulation of the surrendered property and provide a copy to the person. The deputy will scan and save a copy of the tabulation with the case report.
 - b. The firearms shall be taken to the property room, tagged as evidence, and listed as ERPO confiscated property.

I. Refusal to Surrender Firearms

1. A person refusing to surrender their firearms **may be arrested** for violating the ERPO.

Oakland County Sheriff's Office
General Order # 3.26

- a. Violation of an ERPO is a felony punishable by one year imprisonment for a first violation and up to 5 years for subsequent violations. (MCL 691.1819).
2. If the Court already issued a **search warrant**, the search warrant may be executed at this time.
 - a. Following Sheriff's Office General Order #3.9 Search Warrants.
 - b. A search warrant tabulation must be prepared, and a copy provided to the person.

J. Storage and Return of Firearms

1. Firearms surrendered to or seized by OCSO must be stored in the property room as ERPO confiscated property in accordance with General Orders # 4.7.
2. Firearms may be returned after confirming in LEIN that the ERPO has been terminated or expired without renewal and that the person is eligible to possess firearms under federal and state law and pursuant to General Orders # 4.7.
3. If a person fails to reclaim a firearm within 180 days after the ERPO expires or is terminated, the firearms may be disposed of in the same manner as forfeited firearms General Orders # 4.7.
4. If someone other than the restrained person claims title to a firearm, the person must get a court order for the firearms to be returned to them.

K. Reporting

1. An incident report shall be generated any time an ERPO is requested, enforced, served, (CLEMIS code C3359). A copy of all the SCAO forms, including the ERPO search warrant and tabulation used shall be scanned and included in the incident report.
2. Deputies shall submit required ERPO documentation (e.g., Sworn Petition, Search Warrant Affidavit, etc.) to the Oakland County Clerk's Office through the approved Oakland County ERPO electronic submission system when available.
3. For additional information refer to the Oakland County Circuit Court Job Aid for Law Enforcement Officers located on the I-Drive.



ISSUED BY: Sheriff Michael J. Bouchard