

Extreme Risk Firearm Protection Act Policy

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Rescinds/Amends:	New Policy
Pages:	3

PURPOSE

It is the policy of the Santa Fe Police Department to Petition the Courts in accordance with the Extreme Risk Firearm Order Act. The request must establish probable cause and be supported by, a sworn statement from the reporting party or parties. The Santa Fe Police Department will provide a written statement to the Santa Fe County District Attorney's Office or the New Mexico Attorney General's Office, to request the temporary order.

DISCUSSION

The Santa Fe Police Department will enforce any order granted by the Court in accordance with, the Extreme Risk Firearms Protection Act. Santa Fe Police Department commissioned and sworn officers will review all complaints made by the reporting party to establish probable cause to determine if a petition will be completed and forwarded to the Santa County District Attorney's Office or New Mexico Attorney General's Office. The respondent shall reside within the City of Santa Fe.

POLICY AND PROCEDURE

- protection order upon receipt of credible information from a reporting party that provides the Santa Fe Police Department probable cause to believe that a respondent poses a significant danger of causing imminent person injury to self or others by having a firearm in their custody or control or by purchasing, possessing, or receiving a firearm.
- B. A petition for an extreme risk firearm protection order shall provide the specific statements, actions, or facts that support the belief that the respondent poses a significant danger of causing imminent personal injury to self or others by having in the respondent's custody or control a firearm or by purchasing, possessing or receiving a firearm.
- C. A Santa Fe Police officer shall file a petition for an extreme risk firearm protection order upon receipt of credible information from a reporting party that gives the Santa Fe Police Department probable cause to believe that a respondent poses a significant danger of causing imminent personal injury to self or others by having in the respondent's custody or control a firearm or by purchasing, possessing or receiving a firearm.
- D. A petition for an extreme risk firearms protection order shall be made under oath and shall be accompanied by a sworn affidavit signed by the reporting party setting forth specific facts supporting the order.
- A. A law enforcement officer shall file a petition for an extreme risk firearms

- E. A Petition for an extreme risk firearm protection order shall include:
1. The name and address of the reporting party;
 2. The name and address of the respondent;
 3. A description of the number, types and locations of firearms or ammunition that the petitioner believes the respondent has in their custody, controls, owns or possesses;
 4. A description of the relationship between the reporting party and the respondent; and
 5. A description of any legal action, lawsuit, complaint, petition, restraining order, injunction between the reporting party and the respondent.
- F. If a Santa Fe Police Officer declines to file a petition for an extreme risk firearms protection order, the Officer shall file with the Santa Fe County Sheriff's office in which the respondent resides a notice that the Santa Fe Police Department is declining to file a petition pursuant to this policy.

Effective Order:

- A. If the court finds probable cause pursuant to any section of the state statute, the Santa Fe Police Department shall request the court issue a temporary extreme risk

firearms protection order enjoining the respondent from having their possession custody, or control a firearm and shall further enjoin the respondent from purchasing, receiving, or attempting to purchase or receive a firearm while the order is in effect.

- B. The court shall conduct a hearing within fifteen (15) days of the issuance of a temporary extreme risk firearm protection order to determine if a one year extreme risk firearms protection order should be issued pursuant to state statute.
- C. At any time, not less than one month prior to the expiration of a one year extreme risk firearm protection order, a petitioner may request the court to extend the order. Each extension of the order shall not exceed one year. A petition filed pursuant to this subsection shall comply with the provisions of the state statute.

Any firearm relinquished in accordance with the Extreme Risk Protection Order Act shall be returned to the respondent within ten (10) days following the expiration or termination of an extreme risk firearm protection order.

A respondent shall not be required to acquire any court order granting the return of a relinquished firearm.

- D. Officers designated by the Deputy Chief of Administration shall conduct a national criminal records check and shall return the firearms if it can be determined that the

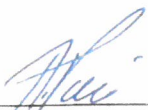
respondent is not prohibited from possessing firearms pursuant to state or federal law.

- E. Upon written request of the respondent, the Santa Fe Police Department shall transfer possession of the respondent's firearms to a federally licensed firearms dealer or a lawful private party purchaser designated by the respondent. If the transfer is the result of a sale, the transferee becomes the actual owner of the firearm(s) thereafter, and except in the case of a federally licensed firearms dealer, the Santa Fe Police Department will conduct a national criminal records check to ensure the transferee is not prohibited from possessing a firearm pursuant to state and federal law.

No fees shall be charged for background checks required pursuant to this policy.

- F. The transferee shall complete a Santa Fe Police Department release/transfer form indicating they will take full legal possession of the firearm(s) and acknowledge that it is unlawful to transfer or return the firearm(s) to the respondent while the extreme risk firearms protection order is in effect.

Drafted (leb) 4/20

Approved: 

Andrew Padilla
Chief of Police

Date: 5/5/20