


<b>GLOUCESTER COUNTY PROSECUTOR'S OFFICE</b> Countywide Standard Operating Procedure				
VOLUME: 6	CHAPTER: 15	# OF PAGES: 4		
<b>SUBJECT: DUTY TO WARN/EXTREME RISK PROTECTION ORDER NOTIFICATIONS AND PROCEDURES</b>				
EFFECTIVE DATE: <b>06-01-2021</b>		ACCREDITATION STANDARDS:	REVISION DATE	PAGE #
BY THE ORDER OF: Acting Prosecutor Christine A. Hoffman				
SUPERSEDES ORDER #:				

**PURPOSE:** The purpose of this policy is to establish and describe the Gloucester County Prosecutor's Office countywide policy regarding Duty to Warn and Protect notifications within Gloucester County. This policy will also establish procedures when law enforcement has reason to seek revocation of a Firearms Identification Card or to apply for an Extreme Risk Protection Order (ERPO).

**POLICY:** The attached procedures are to be followed by all Gloucester County law enforcement agencies. These procedures also provide guidance to licensed medical and counseling practitioners so they can discharge the duty to warn and protect.

## I. PROCEDURE

### A. DEFINITIONS

1. **Duty To Warn and Protect Law:** N.J.S.A. 2A:62-A-16 requires a licensed medical or counseling practitioner to discharge the duty to warn and protect when: (1) the patient has communicated to that practitioner a threat of imminent, serious physical violence against a readily identifiable individual or against self and the circumstances are such that a reasonable professional in the practitioner's area of expertise would believe the patient intended to carry out the threat; or (2) the circumstances are such that a reasonable professional in the practitioner's area of expertise would believe that the patient intended to carry out an act of imminent, serious physical violence against a readily identifiable individual or against self. This duty to warn and protect may be discharged by one or more enumerated actions, including advising a local law enforcement authority of the patient's threat and the identity of the intended victim.
2. **Extreme Risk Protection Order Act:** N.J.S.A. 2C:58-20 to -32 provides procedures through which select people may apply for an Extreme Risk Protection Order (ERPO) against a person who poses a danger of causing bodily injury to self or others by possessing or purchasing a firearm. An ERPO is a civil court order issued by a judge upon consideration of the evidence related to a number of factors, prompted by a petition by a family or household member or a law enforcement officer. An ERPO prohibits that person from owning, purchasing, possessing, or receiving firearms or ammunition, or from securing or holding a firearms purchaser identification card, a permit to purchase a handgun pursuant to N.J.S.A. 2C:58-3, or a permit to carry a handgun pursuant to N.J.S.A. 2C:58-4. Additionally, the New Jersey Attorney General's Law Enforcement Directive 2019-2 provides guidelines to law enforcement agencies and prosecutor's offices on the implementation of this act.

## II. NOTIFICATIONS

- A. Upon a licensed medical or counseling practitioner determining that the criteria has been met to notify law enforcement under the Duty to Warn and Protect Law, the following procedures will be followed:
  1. The licensed medical or counseling practitioner will send the "Notification to Law Enforcement of New Jersey Duty to Warn Law" form via email to the Gloucester County Communications Center (GCCC) at [phoenixadmin@co.gloucester.nj.us](mailto:phoenixadmin@co.gloucester.nj.us) and [policeroom@co.gloucester.nj.us](mailto:policeroom@co.gloucester.nj.us). If it is necessary to provide additional information, then that practitioner can contact GCCC at (856) 307-7180.
  2. GCCC will determine the appropriate jurisdiction based upon where the patient resides and create a "Duty to Warn" call for service in the CAD.

3. To ensure that the matter receives prompt attention by the law enforcement agency within the jurisdiction(s), GCCC will promptly notify the agency's designated Supervisor on Duty of the call for service and provide a copy of the Notification to the Supervisor on Duty.
  4. The Supervisor on Duty will, or direct another member of the agency to, attempt to ascertain through available information if the patient or a household member has been issued a Firearms Identification Card, Permit(s) to Purchase a Handgun, or possesses/has access to one or more firearms.
  5. The agency notified will conduct any investigative measures necessary to follow up on the alleged threat based upon the information provided, including notification of intended victim where appropriate.
- B. If the results to the above inquiry are negative, the following procedures will be followed:
1. The Supervisor on Duty will follow all other internal reporting policies required by the agency to include proper documentation in the CAD.
  2. The Supervisor on Duty will confirm that GCCC "flags" the Duty to Warn by residence, not by a patient's name, and provide any other relevant information to GCCC in the event of future unrelated calls for service at that location. GCCC will provide this information about the prior Duty to Warn to officers responding to that residence in the future.
- C. If any of the results to the above inquiry is positive, the following procedures will be followed:
1. The agency shall conduct an investigation and determination if there is probable cause to believe that the respondent poses an **immediate and present danger** of causing bodily injury to self or others by having custody or control of, owning, possessing, purchasing, or receiving a firearm. If so, the officer shall file a petition for a Temporary Extreme Risk Protection Order (TERPO) and follow all procedures set forth in New Jersey Attorney General's Law Enforcement Directive 2019-2.
  2. If there is no immediate and present danger, or the circumstances indicate that the immediacy or the threat has subsided, and the chief law enforcement officer determines that the patient suffers from a disability under N.J.S.A. 2C:58-3(f), then the chief may apply for the revocation of any firearms purchase identification card or permit to purchase or possess. In addition, the GCPO will consider seeking expedited consideration of a motion to revoke the Subject's Firearms Identification Card and any permits, as well as an Order for the Subject to surrender any firearms which he/she will possess or to which he/she has access.

- D. If firearms and ammunition are seized pursuant to a search warrant issued by the Court after granting the TERPO, or if the respondent safely surrenders all firearms and ammunition, then any Firearms Purchaser Identification Cards, Permit (s) to Purchase a Handgun, and/or firearms will be promptly turned over to the GCPO consistent with established evidence procedures.
1. The law enforcement agency shall contact a member of the GCPO Investigative Staff to obtain a gun permit/firearms evidence number.
  2. All reports, evidence logs, body cameras, etc., associated with the incident shall be preserved and transported to the GCPO Evidence Management Unit under the evidence number assigned.