

	HARRISONBURG POLICE DEPARTMENT General Orders	Policy Number: 320
	Chapter: General Operations	Total Pages: 5
	Section: Substantial Risk Orders	Issue Date: 10/07/2021
	Issued By: Kelley Warner, Chief of Police	Effective Date: 10/07/2021
	Replaces: All General Orders Previously Issued Relative to Subject	
VALEAC Standards:		

A. POLICY AND PURPOSE

The purpose of this policy is to provide guidelines for petitioning for and serving substantial risk orders, and accounting for firearms obtained pursuant to those orders. The Harrisonburg Police Department shall petition for and serve emergency substantial risk orders in compliance with state law, and to properly account for firearms (concealed carry weapons permit) obtained by the department pursuant to such orders.

B. ACCOUNTABILITY STATEMENT

All employees are expected to fully comply with the guidelines and timelines set forth in this policy. Responsibility rests with the supervisor to ensure that any violations of policy are investigated and appropriate training, counseling and/or disciplinary action is initiated. This directive is for internal use only and does not enlarge an employee's civil liability in any way. It should not be construed as the creation of a higher standard of safety or care in an evidentiary sense, with respect to third party claims. Violation of this directive, if proven, can only form the basis of a complaint by this department, and then only in a non-judicial administrative setting.

C. DEFINITIONS

Emergency Substantial Risk Order - An order that is obtained by a law enforcement officer or Commonwealth Attorney and is valid for 14 days.

Prohibited items - Firearms and concealed handgun permits that are prohibited by a substantial risk order.

Substantial Risk Order - An order prohibiting a named person from purchasing, possessing, or transporting a firearm.

D. SUBSTANTIAL RISK ORDER COORDINATOR

The Chief of Police will appoint a substantial risk order coordinator. The responsibilities of the coordinator include:

- a. Developing and maintaining procedures for the filing of a petition for an order or a renewal of an order by Harrisonburg Police Department officers ([VA Code § 19.2-152.13](#)).
- b. Developing and maintaining factors to consider when assessing the need to seek an order, including:
 1. Whether threats have been made, and if so, whether the threats are credible and specific.
 2. Whether the potential victim is within close proximity.
 3. Whether the person has expressed suicidal tendencies.
 4. Whether the person has access to firearms.
 5. The criminal history of the person, in particular any history of criminal violence, including whether the person is currently on parole, probation, or monitored release.
 6. The mental health history of the person, in particular whether the person has any history of mental illness or has ever been detained for being a danger to self or others.
 7. Any upcoming holidays, anniversaries, or other dates of significance that may serve as a trigger for the person, such as the death of a family member.
 8. Whether the person has any history of drug or alcohol abuse.
- c. Developing and maintaining procedures for the receipt and service of orders consistent with the requirements of [VA Code § 19.2-152.13](#) and [VA Code § 19.2-152.14](#). Procedures should include:
 1. A process for the evaluation of an order to determine appropriate service and necessary precautions (see the Arrests/De-Arrests Policy and the Operations Planning and Deconfliction Policy).
 2. A process established in coordination with the Records Supervisor for the entry of orders into appropriate databases, notice to courts, and removal of orders from databases, as applicable ([VA Code § 19.2-152.13](#) ; [VA Code § 19.2-152.14](#)).
 3. A process for obtaining a search warrant for any firearms when there is reason to believe that a person has not relinquished all firearms pursuant to an order ([VA Code § 19.2-152.13](#) ; [VA Code § 19.2-152.14](#)).
- d. Coordinating with the Training Division to provide officers who may be involved in petitioning for or serving orders with training on such orders. Training should include determining when a petition is appropriate, the process for seeking an order, and the service of such orders.
- e. Notify the Commonwealth Attorney's Office as soon as practicable.
- f. Reviewing each petition, each affidavit, and any associated court documents for an order prepared by employees, for compliance with this policy, procedures, and state law.
- g. Developing and maintaining procedures for employees to accept voluntarily surrendered prohibited items at times other than when an order is being served by the Harrisonburg Police Department. Procedures should include preparing and providing a receipt identifying all prohibited items to the person surrendering the items.
- h. Developing and maintaining procedures for releasing, disposing of, or transferring firearms after appropriate database checks ([VA Code § 19.2-152.14](#) ; [VA Code § 19.2-152.15](#)).

E. EMERGENCY SUBSTANTIAL RISK ORDERS

An officer who reasonably believes that a emergency substantial risk order is appropriate should obtain approval from a supervisor in conjunction with the Commonwealth Attorney's Office.

a. STANDARDS

An emergency substantial risk order may be appropriate when there is probable cause to believe that a person poses a substantial risk of personal injury to self or others in the near future by possessing or acquiring a firearm ([VA Code § 19.2-152.13](#)).

Substantial risk orders may be appropriate when there is clear and convincing evidence to believe that a person poses a substantial risk of personal injury to self or others in the near future by possessing or acquiring a firearm ([VA Code § 19.2-152.14](#)).

b. REQUIREMENTS OF PETITION

An application for a emergency substantial risk order should be prepared, filed, and served consistent with state law and the procedures developed by the substantial risk order coordinator ([VA Code § 19.2-152.13](#)).

F. SERVICE ORDERS

Officers shall serve a copy of a substantial risk order, along with any accompanying petition, supporting affidavit, notice of hearing, and other notices as applicable, on the person named in the order as soon as practicable ([VA Code § 19.2-152.13](#); [VA Code § 19.2-152.14](#)).

Service of orders shall take precedence over the service of other orders, except for orders of a similar emergency nature ([VA Code § 19.2-152.13](#); [VA Code § 19.2-152.14](#)).

a. PROOF OF SERVICE

Any officer serving an emergency substantial risk order shall file with the court appropriate proof of service documents, which shall include an inventory of any firearms relinquished ([VA Code § 19.2-152.13](#); [VA Code § 19.2-152.14](#)).

b. VIRGINIA CRIMINAL INFORMATION NETWORK (VCIN)

Any officer assigned to address a emergency substantial risk order received from the court (or its modification or dissolution) is required to verify that the appropriate information is entered into the Virginia Criminal Information Network (VCIN) as may be required by the Virginia State

Police and as soon as practicable. If a court has already entered information regarding the order into the network, the information should still be verified and modified as necessary ([VA Code § 19.2-152.13](#); [VA Code § 19.2-152.14](#)).

c. SAFETY CONSIDERATIONS

Upon receipt of an emergency substantial risk order, the supervisor should evaluate the circumstances of the order and consider what precautions are appropriate for service of the protection order.

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

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

d. SURRENDER OF PROHIBITED ITEMS

Officers serving a substantial risk order shall request that the named person immediately surrender all prohibited items as required by the order. Officers shall take custody of any items surrendered pursuant to the order.

A receipt identifying all surrendered items shall be prepared by the officers and a copy given to the person. Identifying information should include manufacturer, model, condition, and serial number of any firearm ([VA Code § 19.2-152.13](#)). The officers should ensure the original receipt is included in the original case report and forwarded to the Records Unit as soon as practicable.

All items collected should be handled and booked in accordance with the Property and Evidence Unit Policy.

e. SEARCH WARRANTS

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

Officers should also consider whether to seek a search warrant if the named person refuses to surrender any prohibited items or if an officer serving a emergency substantial risk order reasonably believes there are prohibited items within the person's custody, control, or possession that have not been surrendered.

G. RELEASE OF PROHIBITED ITEMS

Any person requesting the release of any prohibited items in Department custody pursuant to a emergency substantial risk order should be referred to the Evidence Unit.

H. RENEWAL OF A SUBSTANTIAL RISK ORDER

The substantial risk coordinator is responsible for the review of any emergency substantial risk orders obtained by the Department to determine if renewal or extension of the order should be requested within the time prescribed by law ([VA Code § 19.2-152.14](#)).