



Colorado Springs Police Department

General Order

DL-1056-01 Extreme Risk Protection Orders

Section 500 – Special Populations

Active Date: 7/13/2023

Supersedes Date: 7/1/2021

.01 Purpose

The purpose of this directive is to provide guidance for petitioning and serving Extreme Risk Protection Orders (ERPO) and the disposition of firearms and other items obtained pursuant to these orders.

.02 Cross Reference

[GO 1400 Collection of Physical Evidence](#)
[GO 1415 Evidence Office Procedures](#)
[EV-06 Weapons Handling and Destruction](#)

.03 Discussion

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.04 Policy

Serving Extreme Risk Protection Orders: It is the policy of the Colorado Springs Police Department (CSPD) to serve Temporary Extreme Risk Protection Orders (TERPO) and Extreme Risk Protection Orders (ERPO) it receives from a Colorado court, in compliance with Colorado law.

Law enforcement petition for ERPO: With the approval of a commander and after legal review by the public safety attorney, sworn members of CSPD may petition the court for a TERPO or ERPO when the officer reasonably believes an individual poses a significant risk of causing personal injury to self or others by having a firearm in his or her custody or control or by possessing, purchasing, or receiving a firearm.

.05 Definitions

Extreme Risk Protection Order: a temporary (TERPO) or permanent (ERPO) civil restraining

order prohibiting the named individual from controlling, owning, purchasing, possessing, receiving, or otherwise having custody of any firearms.

Firearm: Has the same meaning as in CRS § 18-1-901(3)(h): Any handgun, automatic revolver, pistol, rifle, shotgun, or other instrument or device capable or intended to be capable of discharging bullets, cartridges, or other explosive charges.

Federal Firearms License (FFL): an individual or company who possesses a federal license to sell/transfer firearms.

Insta-Check: A computerized background check through the Colorado Bureau of Investigation is necessary before the sale/release/transfer of a firearm.

Petitioner: Family member, household member, licensed health care provider, mental health professional, educator, or law enforcement officer who seeks the issuance of a TERPO or ERPO.

Respondent: the subject of a TERPO or ERPO.

.10 Citizen Referrals to ERPO Process

Department members will refer citizens to <https://www.courts.state.co.us> when they have questions regarding the process to complete a TERPO or ERPO petition. CSPD will not complete a petition on someone else's behalf, nor will CSPD members give any legal advice to people regarding this civil process.

.15 Law Enforcement Petition for ERPO

If an officer reasonably believes an individual poses a significant risk of personal injury to self or others by having a firearm in his or her custody or control or by possessing, purchasing, or receiving a firearm, the officer may complete a petition for a TERPO or ERPO.

All such petitions must be approved by the chain of command through the rank of commander, and must receive legal review by the city's public safety attorney. If the petition is approved, the officer must also complete the required sworn affidavit for a search warrant to search for any firearms in the possession or control of the respondent, before submitting both the petition and the sworn affidavit for a search warrant to the court of the county in which the respondent resides. Officers are not obligated to initiate such a petition, and a decision to proceed with a petition will be made based on the specific facts of the situation.

The court will hold a TERPO hearing with the petitioner within one court day of filing the TERPO petition, with a second hearing scheduled within 14 days of the issuance of the TERPO.

If the court issues a TERPO or ERPO based on a petition from a CSPD officer, the department shall make a good-faith effort to provide notice of the order to a family or household member of the respondent, and to any known third party who may be at direct risk of violence. The notice must provide referrals to appropriate resources (e.g. domestic violence, behavioral health, and counseling) found in the attached brochure.

.20 Notice of Hearing

Pursuant to CRS § 13-14.5-104(1), family or household members who petition the court for an ERPO are required, to the best of their ability, to notify CSPD of the petition and the hearing date with enough advance notice to allow for participation or attendance, if desired. Citizens may make this notification in a variety of ways, such as CSRs or the Communications Center. The court clerk is also required to forward a copy of the notice of hearing and petition to CSPD before the next court day after a petition has been filed.

When the department receives a hearing notification, either from a citizen and/or the court, the receiving department member must send the information electronically to the CSPD Metro Lieutenant at **REDACTED** without delay.

.25 Law Enforcement Service of ERPO Order

CSPD will personally serve a TERPO issued pursuant to CRS § 13-14.5-103 or an ERPO issued pursuant to CRS § 13-14.5-105, and associated documents, when one is received from the issuing court via the clerk of the court. Such orders will be received and documented by a central processing location, the CSPD Metro Lieutenant, at the email address **REDACTED**. ERPO service takes precedence over the service of other documents unless the other documents are of a similar emergency nature.

A petitioner that is a family, or household member, may file a petition:

- in the county where the acts that are the subject of the petition occurred
- in the county where either the petitioner or respondent resides
- in the county where either the petitioner or respondent work

A petitioner that is not a family, or household member, may only file the petition in the county where the respondent resides.

The CSPD Metro Lieutenant is responsible for monitoring the specified ERPO email account and coordinating service of extreme risk protection orders; in their absence, the backup position is the Metro Commander, and/or a CSPD Metro Sergeant.

The CSPD METRO Lieutenant or their designee is responsible for reviewing the TERPO or ERPO document, and any application or other paperwork provided by the courts. The reviewer shall determine, on a case-by-case basis, if any law enforcement action is required in addition to service of the order (i.e. – if criminal activity requiring further action is documented, etc.).

CSPD is required to serve any TERPO or ERPO order it receives within five days of receiving it. During service of a TERPO or ERPO, CSPD is also required to serve the petition and notice of hearing, and a notice of resource referrals found in the extreme risk protection order resource brochure. The notice of referrals will also provide the respondent with instructions for how the respondent may request the return of the items upon expiration or termination of the order. If CSPD is unable to serve the order within five days, CSPD must notify the petitioner and seek additional information about the whereabouts of the respondent. CSPD may request additional time from the court via the city's public safety attorney to allow for the proper and safe planning and execution of the TERPO or ERPO.

In determining the safe execution of a TERPO or ERPO and the resulting surrender or seizure of firearms, officers will consider the listed factors. This list is not inclusive of every factor that may be considered. This list is not prioritized, nor is it meant to imply one factor or combination of factors should have greater weight than another.

- 1) Seriousness of the incident(s) that led to the petition.
- 2) Immediacy and severity of the threat to officers or others.
- 3) Any known variables that could impact the respondent's ability to understand or comply with orders.
- 4) The number, type, and location of firearms in the respondent's possession.
- 5) Potential for injury to officers, respondent, and others.
- 6) Prior contacts with the respondent or awareness of propensity for violence.

.28 Documentation of Law Enforcement Service of TERPO/ERPO

CSPD will document the service of a TERPO or ERPO in a case report using the occurred incident type of non-criminal. If the petition for a protection order occurs as a result of a criminal investigation, officers will generate a separate case report using this occurrence code.

Upon completion of service, the case disposition should be marked as "Closed-Non Criminal". In those instances where officers are unable to serve the TERPO/ERPO, the case disposition should be marked as "Open".

An offense code must be added to the report depending on who initiated the TERPO/ERPO. If the order was initiated by CSPD, the offense code of *13-14.5-103 Temporary Extreme Risk Protection Order Officer Initiated* should be used. If the order was initiated by any petitioner other than CSPD

personnel, including outside agency law enforcement, the offense code of 13-14.5-103 Temporary Extreme Risk Protection Order Citizen should be utilized.

.30 Surrender or Seizure of Firearms and Concealed Carry Permit

TERPOs and ERPOs will include a notice to respondents from the court to immediately surrender all firearms in their custody, control, or possession, and any concealed carry permit issued to them.

The officer serving any TERPO or ERPO will request that the respondent immediately surrender all firearms in his or her custody, control, or possession and any concealed carry permit issued to the respondent. Officer(s) will conduct any search permitted by law for such firearms or permit. Under CRS § 16-3-301.5, officers may seek a search warrant for firearms possessed by a respondent in an extreme risk protection order. In an ERPO petition initiated by CSPD, officers are *required* to seek a search warrant at the same time as the petition for an ERPO.

Officers shall take possession of all firearms belonging to the respondent, including all firearms listed on the order, and any concealed carry permit issued to the respondent that are surrendered, are in plain sight, or are discovered pursuant to a lawful search. The ammunition and any magazines associated with the surrendered firearm(s) will not be taken.

Officers are required to issue a receipt on the appropriate form, identifying all items taken, provide a copy to the respondent, and maintain a copy for the department. Officers must file the original receipt with the court within 72 hours after service of the order. If no property is received from the respondent, an officer will document that fact in the return of service to the court.

Officers will run serial numbers of the firearms in NCIC before submitting them to the Evidence Unit. If any firearms are stolen, officers will initiate a criminal investigation and will place the items in the Evidence Unit. If recovered and determined not to be stolen, officers will place the items in the Evidence Unit as personal property. Items will be submitted to the Evidence Unit as described in applicable directives.

A case report with an incident type of “non-criminal” must be completed for each service of a temporary extreme risk protection order or an extreme risk protection order.

.35 Voluntary Surrender of Firearms at a Police Building

The respondent may voluntarily surrender firearms at the Police Operations Center or any patrol division. The following process outlines the proper procedure for intake of surrendered firearms and concealed carry permits.

- 1) Request the citizen report unarmed to the Police Operations Center or any patrol division,

leaving the unloaded firearm(s) out of sight in a locked vehicle.

- 2) An officer will obtain a valid identification, clear the individual for warrants, and confirm the TERPO or ERPO.
- 3) The officer will collect the firearms and any concealed carry permit from the respondent, issue a receipt to the respondent, and keep a copy for the department. The officer will not collect any ammunition or magazines.
- 4) The officer will follow the process described in section .30 for running serial numbers and placing the firearms and concealed carry permit in the Evidence Unit.
- 5) The officer will complete a case report with an incident type of “non-criminal” related to the voluntary surrender and will attach the department’s copy of the receipt. The report should list the offense of *13-14.5-103 Temporary Extreme Risk Protection Order Citizen* and the case disposition should be marked as “Closed-Non Criminal”.
- 6) The officer will file the original receipt with the court within 72 hours after service of the order.
- 7) The officer will notify the CSPD Metro Lieutenant via email at **REDACTED** of the voluntary surrender, and the associated case number.

.40 Storage and Transfer of Firearms

Once firearms are in the care and control of CSPD, they will be stored in a substantially similar condition that the firearm was when it was surrendered or seized.

After officers have custody of the firearms, the respondent may inform CSPD of their preference for sale, transfer to a licensed FFL Dealer, or storage of the firearm as specified in CRS § 13-14.5-108(1)(a). The law does not require CSPD to inquire as to the respondent’s preference.

If the respondent chooses to sell or transfer the firearms to a federally licensed firearms dealer, CSPD is required to maintain possession of the firearm(s) until they are sold or transferred pursuant to CRS § 13-14.5-108(1)(a)(I). If a respondent chooses this option, CSPD will follow the applicable weapons handling procedure to facilitate the proper release of the firearms to the federally licensed firearms dealer. Additionally, antique, curio, or relic firearms may be transferred to a relative who does not live with the respondent.

In all such cases of firearms transfer, CSPD is responsible for requesting InstaCheck from the Colorado Bureau of Investigation to ensure the person receiving the firearms is allowed to do so.

.45 Ownership of Firearms

After firearms have been surrendered or seized, and another person who is not the ERPO respondent claims undisputed and verifiable ownership of the firearms, the firearms may be released to that person after CSPD has confirmed the party is eligible to be in possession of

firearm(s), via a criminal records background check (CBI InstaCheck). When ownership is a disputed matter, CSPD will not release the firearms without a court order.

.50 Return of Firearms

Upon a request by the respondent to release firearms pursuant to the expiration or termination of an ERPO, CSPD has no more than three days to return the firearm(s) to the respondent following the required criminal background check and confirmation of the termination or expiration of the order. If applicable, the respondent's concealed carry permit will be returned at the same time as the firearm(s).

The agency will be notified of the termination of the order by the courts. The CSPD Metro Lieutenant will ensure the order is properly submitted under the appropriate case report in LERMS.

.55 Disposition of Unclaimed Firearms

Any firearm(s) surrendered by the respondent, or taken into custody as the result of a search warrant, that remains unclaimed by the respondent or lawful owner for at least one year from the date the TERPO or ERPO expired, whichever is later, become the property of the law enforcement agency.

The firearm(s) will then be disposed of in accordance with existing department directives. The Evidence Unit will document the disposition of the firearm(s) in the EvidenceonQ system.

.60 Violations of Terms of Order

Any person who has in their custody or control a firearm or purchases, possesses, or receives a firearm with knowledge that they are prohibited from doing so by a temporary ERPO or an ERPO can be arrested for a class 2 misdemeanor under CRS § 13-14.5-111. After an ERPO is issued by a court, CBI will enter the information into NCIC, CCIC, and any other applicable computer system. The ERPO is fully enforceable in any county in Colorado. If a person reports this crime, CSPD will build a call for service and dispatch officers in accordance with CSPD's call for service prioritization.

If the respondent does not file an appropriate response with the court as required by CRS 13-14.5-108(6)(a), the court will inform CSPD of the respondent's failure to file the appropriate response. When the department receives such a notification from the court, the receiving department member must send the information electronically to the CSPD Metro Lieutenant at **REDACTED** without delay. The CSPD Metro Lieutenant will ensure CSPD makes a good faith effort to determine whether there is evidence the respondent has failed to relinquish any firearm in the respondent's custody, control, or possession, or a concealed carry permit issued to the respondent.

Any temporary ERPO issued expires on the date and time of the hearing on the ERPO petition or the withdrawal of the petition. The date and time of expiration will be included on any temporary ERPO issued by the court.

Attachments

[ERPO Resource Brochure](#)

[ERPO Receipt for Surrendered or Seized Property](#)