



Colorado Springs Police Department

General Order

1056 Protective Orders

Section 1000 – Patrol Functions

Effective Date: 8/16/2021

Supersedes Date: 4/19/2011

.01 Purpose

The purpose of this directive is to outline procedures for responding to violations of Protection Orders and for service of Civil Protection Orders.

.02 Cross Reference

[GO 400 Employee Conduct \(Sworn and Civilian\)](#)

[GO 1050 Juveniles: General Applicability](#)

[GO 1053 Domestic Disturbances & Violence](#)

[DL-1006-10 Pick-Up Procedures](#)

[DL-1050-01 Juvenile Victims](#)

.03 Discussion

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.04 Policy

If any officer has reasonable grounds to believe that the subject named in an active Protection Order or No Contact Order has violated that order, the officer will take the appropriate action described in this directive. Service of Civil Protection Orders will be completed as described in Paragraph .12 below.

.05 Definitions

Central Registry: A computerized database maintained by the Colorado Bureau of Investigation that contains information relative to active protection orders issued or registered in Colorado. The database is accessible to law enforcement through the "wanted persons" query on MDCs, and other department computers. Information is supplied by the issuing court clerks; however, as a practical matter, it is possible that some orders that are valid may not be listed, or that orders which have expired remain in the system.

Emergency Protection Order (EPO): A temporary restraining order that may be issued by a county or district court judge, by telephone, at all times that the courts are otherwise closed for judicial business. The grounds for issuing the order are that an officer believes that an adult is in immediate and present danger of domestic abuse, based upon an allegation of a recent incident of actual domestic abuse, or threat of domestic abuse. Per CRS § 13-14-103, emergency protection orders will expire not later than the close of judicial business on the next day of judicial business following the day of issue unless otherwise continued by the court, during which the protected party must obtain a protection order through the courts.

Foreign Protection Order: Any protection order, injunction, or other order, issued for the purpose of preventing violent or threatening acts or harassment against, or contact or communication with, or physical proximity to another person, including temporary or final orders, other than child support or custody orders, issued by a civil or criminal court of another state, Indian tribe, or a US territory or commonwealth.

Mandatory Protection Order: In accordance with CRS §18-1-1001, at the time of their first appearance before a judge, any person charged with a violation of any Title 18 crime, including but not limited to Domestic Violence offenses, has an automatic Mandatory Protection Order placed against them, effective until final disposition of the court case, that restrains them from harassing, molesting, intimidating, retaliating against, or tampering with any witness or victim of the crime. Such an order is typically issued, in writing, to Domestic Violence arrestees before they are released from CJC. When considering probable cause for an arrest, officers must determine if the alleged acts violate the terms of the order issued in each case (e.g. any contact, or harassing/intimidating behavior). If the protected person does not have a copy, the order can be verified by checking the CBI Central Registry, the Colorado State Court database and/or calling CJC Intake.

No Contact Order: No Contact Orders may be issued by the court, as a provision of Protection Orders in any type of case including criminal or civil cases, and in cases involving domestic relations. The no contact order may prohibit any contact whatsoever by the suspect with the victim. Any such orders issued by the court or issued with the authority of the court through the El Paso County Sheriff's Office, will be enforced by officers of this department.

Protection Order: An order issued by a County or District judge, for the protection of a person, upon application by that person or by someone legally authorized to act for that person, that restricts, in specific ways, the actions of some other person. In Domestic Violence related investigations, the no contact provisions, and all other provisions of the order are non-expiring until the conclusion of the judicial case, unless modified by the court.

Penalty: Violation of a protection order is a Class 2 misdemeanor; except if the restrained person has previously been convicted of violating a protection order, or if the protection order is pursuant

to CRS § 18-1-1001, the violation is a Class 1 misdemeanor, which includes the Mandatory Protection Order and No Contact provisions in domestic violence bonds.

.10 Enforcement of Protection Orders

Enforcement of all protection orders will be in accordance with section 18-6-803.5, CRS, Crime of Violation of Protection Order, and any rules adopted by the Colorado Supreme Court pursuant to said section.

A person commits the Crime of Violation of a Protection Order if such person contacts, harasses, injures, intimidates, molests, threatens, or touches any protected person, comes within a specified distance of a protected person or premises, or enters or remains on premises, or violates any other provision of a protection order to protect the protected person from imminent danger to life or health, and such conduct is prohibited by a protection order, after such person has been personally served with any such order or otherwise has acquired from the court actual knowledge of the contents of any such order.

Permanent or Temporary Protection Orders and EPOs

If any officer has probable cause to believe that the subject named in an active Temporary or Permanent Protection Order or Emergency Protection Order has violated or attempted to violate that order as described above and the restrained person has been properly served with a copy of the protection order or the restrained person has received actual notice of the existence and substance of such order, the officer will arrest according to procedure.

The arrested person will be removed from the scene of the arrest and will be taken to the Criminal Justice Center for booking. The arrested person will be booked into jail on a probable cause affidavit for CRS §18-6-803.5 Crime of Violation of Protection Order.

In the case where the Criminal Justice Center refuses to book the individual for a non-domestic violence violation, the arrestee will be served and released from any law enforcement facility, which could include CJC. Any person violating a protection order issued pursuant to cases involving domestic violence as defined in CRS §18-6-800.3 will be booked into jail on a Domestic Violence probable cause affidavit, for both misdemeanor and felony offenses.

In determining probable cause, officers will use information concerning active protection orders obtained through the CBI Central Registry maintained on the CCIC computer system, the **Colorado Courts Database**, as part of their basis for determining whether probable cause of a violation exists. CRS §18-6-803.5 (3)(c) states that "a peace officer will assume that the information received from the registry is accurate"; however, officers should not base their probable cause for

an arrest exclusively upon information from the registry, and will make every reasonable effort to confirm through additional sources that the protection order is valid and active.

This can be accomplished through viewing a printed copy of the order provided by the victim, by admissions from the suspect that he/she is aware of the order's validity, by interviews with third parties who were witnesses to its service, by contacting the issuing court, or other investigative means. Officers in need of additional resources should access the Lexis Nexus computer system to confirm validity of a Protection Order by scrolling down to the "proceedings" heading to verify the existence of an order in the name of the alleged offender.

Statutes do not require victims to produce a paper copy of the protection order as a condition of it being enforced by police, so long as probable cause of its existence and validity can be established through other means.

Note: Protection orders may only be modified or terminated by the court. The parties to the order do not have the authority to modify or terminate the order themselves. The fact that the victim may have "invited" the suspect to violate the protection order does not alter the fact that the order has been violated and the offender will be arrested.

Domestic Violence Bonds

If the defendant has violated (1) the Mandatory Protection Order and/or the No Contact provisions of the Personal Recognizance Bond section of the Domestic Violence Form or (2) a domestic violence Cash or Surety bond issued from the jail, the officer will arrest according to procedure. The arrested person will be removed from the scene of the arrest and will be taken to a Division Command or the Criminal Justice Center for processing.

The arrested person will be booked into jail on a Domestic Violence probable cause affidavit with the following charges:

CRS §18-6-803.5 Crime of Violation of Protection Order

CRS §18-8-212 Violation of Bail Bond Conditions

Protection Orders Against Juveniles

If any officer has probable cause to believe that a juvenile named in an active Protection Order has violated that order as described above, the officer will arrest according to procedure. The arrested person will be removed from the scene of the arrest and will be taken to the Zeb Pike detention center after contacting the juvenile screener. The juvenile should be served a Juvenile Complaint and Referral (J-Summons) for CRS §18-6-803.5 Crime of Violation of Protection Order.

When additional offenses have been committed:

- If a Misdemeanor, offense is committed in conjunction with the violation of a protection order: Charge the subject with both CRS §18-6-803.5 Violation of Protection Order and the associated misdemeanor offense (for example, harassment or third degree assault).
- If a Felony, offense is committed in addition to a protection order violation: Book the person who has committed the felony on that charge and CRS §18-6-803.5 Violation of Protection Order.

.12 Service of Civil Protection Orders

CRS § 13-14-102 stipulates that a Civil Protection Order (CPO) issued under that statute must be personally served by any peace officer responding to a call for assistance if the order has not already been served. While plaintiffs (victims) obtaining such CPOs may continue to seek service through the El Paso County Sheriff's Office or through private means, CSPD officers encountering these situations will effect personal service of the court order in the following manner:

CSPD employees will not accept copies of CPOs from plaintiffs (victims) for service upon defendants who are not presently on scene or otherwise immediately available for service. CSPD employees must exercise extreme caution in making statements to plaintiffs (victims) so as not to guarantee service of an order upon defendants who are not physically present at the time of contact. Making such representations could have the effect of placing the CSPD in a special relationship with the plaintiff, which could require the Department to assume responsibility for later service regardless of the practicality of doing so.

When responding to a call for service during which a plaintiff requests that a CPO be served, CSPD officers will render reasonable and necessary assistance in doing so when:

- The plaintiff has in their possession a valid, signed (or otherwise verified) copy of a CPO which has not been served upon the defendant, AND
- The defendant (person upon whom the order is to be served) is physically present at or near the scene or is otherwise immediately available to the officer.

When the defendant is not immediately available, but their location is known, officers may take reasonable steps to contact them so that service can be affected. Officers should not take the CPO out of the plaintiff's possession until actual contact has been made with the defendant so that immediate personal service can be affected. Officers should consider having other officers check the known location and stand by with the defendant until the primary officer can deliver the CPO. If unusual or mitigating circumstances are encountered, officers should seek guidance from a supervisor.

If, for reasons beyond the officer's control, personal service cannot be affected after the order was taken out of plaintiff's possession, the unserved paperwork will immediately be returned to the plaintiff.

Defendants will not be taken into physical custody solely for serving a protection order upon them, nor will a personal pickup be placed for a defendant solely for serving a protection order. This does not preclude officers from effecting personal service of a CPO upon a defendant who has been arrested for other reasons.

Plaintiffs must present officers with two valid copies of the CPO and must have in their possession both a Proof of Service and a Return of Service form. When the officer has made personal service to the defendant, the officer will indicate the defendant's name, date, time and location of service, sign both forms and immediately return both to the plaintiff. Officers will not retain possession of either the Proof of Service or the Return of Service, nor assume responsibility for returning these documents to the Court. Officers should explain to the plaintiff that they should keep the Proof of Service in their possession in order to prove service in the event the order is later violated, and instruct the plaintiff to return the completed Return of Service form to the Court as soon as possible.

Personal service requires face-to-face contact between the officer and defendant, during which the officer will provide the defendant with a copy of the CPO. While officers should attempt to explain the meaning of the order and answer reasonable questions from the defendant, it is immaterial whether or not the defendant agrees to accept service or claims not to understand the terms of the order. Officers effecting service upon defendants who claim not to understand the English language should make reasonable attempts to explain the document in the defendant's native language through interpreters, Language Line, etc.; however, the service will be considered valid whether or not these attempts are successful. Once personal service has been affected the order is in effect and officers should ascertain that defendants immediately comply with provisions which may require the defendant to leave a shared residence, regardless of who is named in a lease or mortgage agreement.

When generating offense or incident reports relative to the call during which a CPO was served, officers will note the facts of CPO service in such reports, to include date time and location of service and name of the person served. Officers are not required to initiate a case report solely for documenting service of a CPO. When no report is generated, officers should instruct Communications to record the fact that service was affected, along with the name of the person served, in the details of the call for service screen.

In some instances, officers may be unable to effect personal service upon the defendant but may have an opportunity to verbally apprise the defendant of the terms of the CPO by phone or through

a third person. Such verbal notice does not constitute personal service, and officers should not complete the Proof of Service or Return of Service forms in such circumstances. However, verbal notice may satisfy the notice requirements of CRS §18-6-803.5, Crime of Violation of a Protection Order, and officers should make note of it in offense reports and/or call for service screens in order to help establish probable cause for arrest if the defendant should later violate the order.

Officers are cautioned against becoming involved in the service or enforcement of civil processes other than protection or protective orders, as defined in CRS § 18-6-803.5 and 803.8. Protective orders will, as a rule, contain some type of language prohibiting a person from contacting or from harassing, intimidating, etc., another person.

.20 Violation of Alcohol/Drug & Firearms Provisions

Officers frequently contact individuals who have consumed alcohol/drugs in violation of a protection order. If the underlying protection order barring them from consuming drugs/alcohol was issued for a domestic violence offense, violation of this provision alone **is not** a domestic violence offense. This same standard applies to firearm provisions.

If the violation occurs in addition to new DV offenses (e.g., a restrained party assaults his girlfriend and is intoxicated), the protection order violation may be included with the new DV charges.

.25 Duty to Notify

Officers will make all reasonable efforts to contact the protected person upon the arrest of the restrained person, informing the protected person of the arrest and disposition. Additionally, CRS §18-6-803.5 (3)(e) states that upon the arrest of a restrained person "the agency will give a copy of the agency's report, witness list, and charging list to the protected party." In order to comply with this portion of the statute and still manage the release of records, officers are to advise the victim that an arrest has been made and that the victim is entitled to a copy of the report. Officers will refer any victim who requests a copy of their report to the Records Section.

.30 Tribal & Foreign Protection Orders

Officers will enforce foreign/tribal protection orders that appear to be an authentic court order, despite the order not having been entered into a state registry.

In accordance with applicable statutes, CRS § 13-14-110 and § 18-6-803.5, officers are obligated to investigate and enforce violations of protection orders issued by tribal courts. This includes two

tribal courts operating in Colorado, the Southern Ute Indian Tribe, and the Ute Mountain Ute Indian Tribe.

To assist officers in enforcing tribal protection orders, officers should consider the following investigative points:

- When responding to a domestic dispute, determine if any of the involved parties are members of a tribe or consider themselves a Native American person as defined by federal law. If so, ask the involved party whether there are any protection orders in place that were issued by a tribal court.
- Document which tribal court issued a protection order and relay that information to the local district attorney for prosecution.
- Contact our department's victim advocacy unit to request they contact tribal victim advocates.

While orders issued by a tribal court are enforceable, in some situations the orders may not be placed into NCIC/CCIC/state registry. While the Southern Ute Indian Tribe enters protection orders into NCIC/CCIC, the Ute Mountain Ute Tribe does not.

If presented with an order issued by the Ute Mountain Ute Indian Tribe, officers can verify the validity of the order by contacting their dispatch center at 970-565-3706.

Despite some tribal protection orders not being entered into NCIC/CCIC/state registry, officers may rely upon the statement of any person protected by a foreign protection order that it remains in effect. Doing so is covered as an active good faith and thus the officer would be protected from civil or criminal liability under CRS § 18-6-803.5(5).