

Seattle Police Department Manual

15.405 – Extreme Risk Protection Order (ERPO)

Effective Date: 10/01/2020

15.405-POL

Extreme Risk Protection Orders (ERPO) prevent individuals at high risk of harming themselves or others from accessing firearms by allowing family, household members, and police to obtain a court order when there is demonstrated evidence that the person poses a significant danger.

Family or household members and Law Enforcement Officers may obtain an ERPO when there is evidence that the person poses a significant danger, including danger because of a dangerous mental health crisis or violent behavior. The purpose and intent is to reduce gun deaths and injuries through an order temporarily restricting a person's access to firearms.

This does not affect the ability of the law enforcement officer to remove a firearm or concealed pistol license from any person or conduct any search and seizure for firearms under other lawful authority.

1. Extreme Risk Protection Order Definitions

“Extreme Risk Protection Order” means a temporary order, or a final order granted by the court

“Ex Parte Order” is a temporary order issued by a court pending a formal hearing. If the court finds there is a significant danger of the respondent injuring self or others soon by having in his or her custody or control, purchasing, possessing, or receiving a firearm, the court will issue an ex parte order without notice to the respondent.

- This temporary order lasts up to 14 days. There must be a hearing within 14 days. At the hearing the court can then issue a final order. Final orders must last for a period of one year.

“Petitioner” means the person who asks the court to issue the ERPO. The Petitioner can be a family member or law enforcement.

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"Family or household member" means, regarding a respondent:

- Persons related by blood, marriage, or adoption;
- Dating partners;
- Persons with a child in common, regardless of whether such persons have been married or have lived together;
- Persons who reside or have resided together within the past year;
- Domestic partners;
- Persons in a biological or legal parent-child relationship, including stepparents and stepchildren and grandparents and grandchildren; and
- Persons acting or have acted as the respondent's legal guardian.

"Respondent" means the person to whom the ERPO applies who is prohibited from having access to firearms and having a CPL.

2. The Department Coordinates the Service of ERPO's

The Department will provide personal service of the notice of hearing and petition to the respondent not less than five court days prior to the hearing.

The Department must, if requested, provide prior notice of the return of a firearm to a respondent to family or household members of the respondent in the manner provided in [RCW 9.41.340](#) and [9.41.345](#).

Service of an ERPO will take priority over other orders needed to be served unless the other orders are of a similar emergency nature and those respondents present an equivalent or greater risk of harm if not immediately served.

Service is not considered valid unless the respondent is personally served, or unless the court specifies otherwise.

The first attempt at service will occur within 24 hours of receiving the order and service packet.

- If the first attempt failed, at least three attempts will be made to serve the order. If the order was determined to be a high risk, additional attempts at service will be made.

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Each attempt at service is noted in the service packet, with the date, time, address, officer's/detective's name, and reason service was not completed.

Court orders that have expired or are unsigned will not be served.

Officers will screen with a sergeant, any order received from an outside agency, presented at a precinct or directly to an officer

(See manual section [15.215 – Seizing and Releasing Firearms](#), (15.215-PRO-3 Follow-up Unit Service of an Order to Surrender a Firearm and/or CPL and 15.215-PRO-4 Patrol Service of an Order to Surrender a Firearm and/or CPL Assigned by an SPD Follow-up Unit))

3. Law Enforcement Officers May Petition for an ERPO and/or Refer the Public to Pursue an ERPO

When an officer encounters a situation where an ERPO may be appropriate the officer will record the incident in a Report with information supporting the pursuit of an ERPO by follow up units.

- Patrol officers may work with the designated follow up unit to pursue an ERPO following the procedures of this policy.
- Follow up units will generally be responsible for pursuing an ERPO when appropriate and for handling all administrative requirements of the order.

(See 15.405-PRO-1 Law Enforcement Officer Reporting the Need for an Extreme Risk Protection Order & 15.405-TSK-1 Completing and Filing the Petition)

15.405-PRO-1 Law Enforcement Officer Reporting the Need for an Extreme Risk Protection Order

Patrol Officer

1. **Identifies** a situation where an ERPO may be appropriate.
 - Demonstrated evidence the person poses an immediate, significant danger; to include threatening or violent behavior (to self or others) where there is a nexus to a firearm.

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2a. If encountering a person where an ERPO may assist their situation, **explains** to the person what an ERPO is and how to obtain one at the King County Courthouse

2b. If encountering a situation that requires a primary investigation, **completes** a Report and the LEA Addendum.

- **Articulates** facts supporting the ERPO in the Report and thoroughly completes the LEA Addendum.
- If a Behavioral Crisis report is completed for the incident, Selects "ERPO Crisis" label, in addition to any other applicable Report labels

Sergeant

3. **Screens** and **approves** all associated reports.

4. **Completes** an SIR for the incident.

Patrol Officer

5a. **Completes** an Alert Email with a copy of the Report and the original LEA Addendum and forwards to the appropriate follow-up unit.

- If a Behavioral Crisis report is completed for the incident, **sends** an email notification to SPD_Crisis_Response@Seattle.gov including "ERPO" and the case number in the 'Subject' line.

or

5b. With the approval of their sergeant, **seeks the petition** for an ERPO by following the steps below.

- Generally, Patrol will not proceed beyond completing the Report, LEA Addendum and forwarding the Alert Email.

Assigned Detective

6. **Determines** if petitioning for an ERPO is appropriate.

7. **Petitions** for the ERPO using the courts guidelines.
(15.405-TSK-1 Completing and Filing the Petition)

15.405-TSK-1 Completing and Filing the Petition

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When completing an ERPO petition the **Law Enforcement Officer** will:

1. **Access** the required forms Extreme Risk Protection Order Forms
2. **Completes** a petition and the LEA Addendum (if not completed by patrol) that contains:
 - A detailed explanation why the respondent poses a significant danger of injuring self or others by having in his or her custody or control, purchasing, possessing, or receiving a firearm.
 - Identify the number, types, and locations of any firearms the officer believes to be in the respondent's current ownership, possession, custody, or control;
 - Identify whether a known existing protection order governs the respondent.
 - Makes the address of record on the petition
Seattle Police Department,
610 5th Ave,
P.O. Box 34986,
Seattle, WA 98124-4986
 - If the petition states that disclosure of the petitioner's address would risk harm to the petitioner or any member of the petitioner's family or household, the petitioner's address may be omitted from all documents filed with the court. If the petitioner has not disclosed an address, the petitioner must designate an alternative address at which the respondent may serve notice of any motions. If the petitioner is a law enforcement officer or agency, the address of record must be that of the law enforcement agency.

Additional considerations for the petition:

- A recent act or threat of violence by the respondent against self or others, whether or not such violence or threat of violence involves a firearm;
- A pattern of acts or threats of violence by the respondent within the past twelve months including, but not limited to, acts or threats of violence by the respondent against self or others;

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- A violation by the respondent of a protection order or a no contact order issued under chapter 7.90, 7.92, 10.14, 9A.46, 10.99, 26.50, or 26.52 RCW;
- A previous or existing extreme risk protection order issued against the respondent;
- A violation of a previous or existing extreme risk protection order issued against the respondent;
- A conviction of the respondent for a crime that constitutes domestic violence as defined in RCW 10.99.020;
- The respondent's ownership or access to, or intent to possess firearms;
- The unlawful or reckless use, display, or brandishing of a firearm by the respondent;
- The history of use, attempted use, or threatened use of physical force by the respondent against another person, or the respondent's history of stalking another person;
- Any prior arrest of the respondent for a felony offense or violent crime;
- Corroborated evidence of the abuse of controlled substances or alcohol by the respondent; and
- Evidence of recent acquisition of firearms by the respondent.

3. **Completes** the required information on the Return of Service and the Extreme Risk Protection Order or Temporary Extreme Risk Protection Order-Without Notice. Makes sure every box is marked for each document showing service was complete.

4. **Submits** the completed forms to the Superior Court clerk at the King County Courthouse in Seattle, room C-607.

- The clerk will assign the petition a case number and provide a date and time for the hearing.
- If a temporary order is not sought, the court may take up to 14 days to issue the order.

5. Once the order is signed by a judge, **submits** the paperwork back to the court clerk who will enter the order and provide certified copies.

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6. **Compiles** copies of any paper documents from the investigation. ***This does not include the Report or Supplement(s) entered via Mark43.***
 - **Routes** original paper documents to Data Center through normal distribution processes.
7. **Makes** a good faith effort to provide notice to a family or household member of the respondent and to any known third party who may be at risk of violence.
 - The notice must state that the petitioner intends to petition the court for an ERPO or has already done so, and includes referrals to appropriate resources, including mental health, domestic violence, and counseling resources.
 - The petitioner must attest in the petition to having provided such notice or attest to the steps that will be taken to provide such notice.
8. **Records** in the Report or Supplement, where and when and any attempts to notify the involved parties
9. If an ex parte ERPO is sought and given, **serves** the order.

(See manual section [15.215- Seizing and Releasing Firearms](#))
10. If patrol seeks the petition, **sends** the packet to the follow-up unit using an Alert Packet.