

King County Model Policy

Domestic Violence Response, DV Related Court Orders & Extreme Risk Protection Orders

April 2019 Ver.

Disclaimer: This information is not a WASPC Model Policy. It is, however, a model policy substantially adopted by the King County Chiefs Association and the Snohomish County Chiefs Association, and is provided here as information available to law enforcement agencies seeking to review/revise their related policies.

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BACKGROUND

Research has long cited the danger of armed domestic violence offenders. Those risks extend not only to the direct victim of the abuse (and themselves), but also frequently to: their children, the law enforcement officers dispatched to respond and to the community at large (in the form of community violence and mass shootings). Retrospective studies of “active shooters” and the advent of “red flag laws”, or in our State, the Extreme Risk Protection Order, have highlighted the danger of people who are experiencing a behavioral health crisis (or violent behavior) and also have access to firearms. The confluence of firearms as a common denominator of risk requires our systems and practices to better align with this reality. The purpose of this model policy is to integrate evidence-based practices into mainstream law enforcement protocols with two explicit goals: to promote firearm removal during periods of heightened risk (whenever lawfully possible) and to ensure swift and certain consequences when civil and criminal court orders are violated or ignored.

The purpose of domestic violence laws in the State of Washington is to recognize domestic violence as a serious crime and to assure the victims of domestic violence that they are provided the maximum protection from abuse available by law and from those who enforce the law. In 1979, the Washington State Legislature found that existing criminal statutes were adequate to provide protection for victims of domestic violence, but that previous societal attitudes reflected in policies and practices of law enforcement agencies and prosecutors resulted in differing treatment of crimes occurring between cohabitants versus the same crimes occurring between strangers. The serious consequences of domestic violence and the damage the cycle of violence does to society, victims, and families led to the recognition of the necessity for early intervention by law enforcement agencies and consistent enforcement of the law. The Legislature recited in RCW 10.99.010 that the official response to cases of domestic violence shall stress the enforcement of the laws to protect the victim and shall communicate the attitude that violent behavior is not excused or tolerated.

In 1984, the Legislature enacted the Domestic Violence Prevention Act (RCW 26.50) creating orders for protection to provide additional tools available to protect victims of domestic violence.

The Legislature further recognized that domestic violence victims, their family members, petitioners, and law enforcement personnel responding to DV incidents faced significant risks to their safety when DV victims requested law enforcement assistance and when they were seeking protection from batterers and other violent persons. Analysis of FBI supplementary homicide reports (2009-2013) indicates that, in the United States, a woman is fatally shot by her partner every 16 hours. Research concluded in 2003 showed that the presence of a firearm in a domestic violence situation made it five times more likely that a woman would be murdered. A 2016 report from the National Law Enforcement Officers Memorial Fund found that calls related to domestic disputes and domestic-related incidents resulted in more police fatalities than any other type of call. Research reveals that a woman’s risk of homicide is highest when she is trying to end

the relationship. Finally, states with laws prohibiting individuals subject to DV related orders from possessing firearms, and requiring them to relinquish any firearms in their possession, show a 10% lower rate of total intimate partner homicide and a 14% lower rate of intimate partner firearm homicide. For these reasons, in 2014, the Washington State Legislature unanimously passed a law requiring immediate surrender of weapons - Orders to Surrender Weapons (OTSW) for certain persons subject to Protection Orders, No Contact Orders, Anti-harassment Orders, and Restraining Orders upon a finding that the respondent represents a credible threat to the physical safety of the intimate partner or child.

In addition, in 2016, the Washington voters authorized a new type of order, the Extreme Risk Protection Order (ERPO), mandating immediate removal of firearms from those posing risk of harm to self or others, such as individuals in crisis.

The identification of available firearms at the time of the initial police response, swift order service, and the removal of all firearms for safe-keeping at the time of order service, particularly for those restrained persons who present the greatest risk, is critically important in reducing risk of injury.

This policy is designed to provide law enforcement personnel with clear definitions, direction, and procedures for response to domestic violence incidents and the entry, service, and enforcement of all types of court orders, including OTSWs and ERPOs.

This model policy and procedures may be supplemented and/or updated as needed based on changes in the law or best practices.

DEFINITIONS

Domestic Violence (RCW 26.50.010) – Physical harm, bodily injury, assault, or the infliction of imminent physical harm, bodily injury, or assault, between family or household members; sexual assault of one family or household member by another; or stalking as defined in RCW 9A.46.110 of one family or household member by another family or household member.

Family or Household Members – Domestic Violence Related Definition (RCW 10.99.020)

Individuals who have the following types of relationships between one another:

- Spouses, former spouses
- Persons with a child in common, regardless of whether such persons have been married or have lived together at any time
- Adult persons related by blood or marriage
- Adult persons who reside together or have resided together in the past
- Persons 16 years of age or older who presently reside together or who have resided together in the past and who have or have had a dating relationship

- Persons 16 years of age with whom a person 16 years of age or older has or has had a dating relationship
- Persons who have a biological or legal parent-child relationship, including stepparents and stepchildren and grandparents and grandchildren
- Domestic partners and former domestic partners (RCW 26.50.010)

Family or Household Members – Extreme Risk Protection Order Definition (RCW 7.94.020)

With respect to a respondent, any

- Person related by blood, marriage, or adoption
- Dating partners of the respondent
- Person who has a child in common with the respondent, regardless of whether such person has been married to the respondent or has lived together with the respondent at any time
- Person who resides or has resided with the respondent within the past year
- Domestic partner of the respondent
- Persons who have a biological or legal parent-child relationship with the respondent, including stepparents and stepchildren and grandparents and grandchildren
- Person who is acting or has acted as the respondent’s legal guardian

Dating Relationship (RCW 26.50.010) – A social relationship of a romantic nature.

Intimate Partner – A person who is or was married, in a state-registered domestic partnership, or in an intimate or dating relationship with another person at the present or at some time in the past. Any person who has one or more children in common with another person, regardless of whether they have been married, in a domestic partnership with each other, or lived together at any time, shall be treated as an Intimate Partner.

Petitioner – The person who files the initial case. In most cases, the person who initiates the case is also the “Protected Person.” In some situations, where there is an overarching family law case, such as a dissolution, or parenting plan, the person who initiated that case is the “Petitioner” for that action but may be listed as the Respondent/Restrained Person on the actual Protection Order. In criminal cases (No-contact Orders) the State/City is the Petitioner.

Protected Person – The person who asks the court to issue a Protection Order. The Protected Person may be either the named Petitioner or Respondent, depending upon the type of case, as noted above. In the case of ERPOs, there is no Protected Person; rather there is a Petitioner, who may be an individual or a law enforcement agency.

Respondent – The person who initially must respond to the case filed by the Petitioner and who is the “Restrained Person.” In an Extreme Risk Protection Order, the Respondent is always the person ordered to surrender firearms/concealed pistol license.

Restrained Person – The person to whom the order applies. A Restrained Person may be prohibited from having contact with the Protected Person or other family member, or having access to any firearm(s) and/or concealed pistol license (CPL).

DOMESTIC VIOLENCE RESPONSE POLICY, DV COURT ORDER POLICY

Domestic violence laws emphasize the criminal nature of domestic violence and establish enforcement of the law, victim safety, and offender accountability as the priorities for the law enforcement response. The failure of any law enforcement officer to properly respond and handle a domestic violence call in accordance with existing law and agency procedure is a violation of agency policy.

Every response to a domestic call will include a substantive investigation of the incident leading to the call. Officers responding to a domestic violence call will complete a thorough investigation and shall take a complete offense report including:

- background information detailing the relationship;
- domestic violence history (risk assessment factors);
- the presence, possession, and access by the abuser to any firearms;
- injuries and complaints of pain;
- identification of the victim, complainant(s), and all witnesses, including all children in the home regardless of age
- obtaining victim, complainant(s), and witness statements, including statements from children in the home if age appropriate;
- physical evidence including photos of injuries and scene, text messages, clothing and weapons; and
- documenting the attempts to locate and physically arrest the suspect.

(Snohomish County departments) Officers will complete the primary investigative report in accordance with the Domestic Violence Report Checklist and include the Domestic Violence History form as part of their investigation and report.

All domestic violence incident calls and domestic violence order violation calls will be investigated thoroughly enough to minimize the need for follow-up and with a goal of being able to prosecute the case without victim participation or cooperation if necessary.

Officers are authorized to provide assistance by offering, facilitating, or arranging transport for a domestic violence victim and children to a hospital for treatment, or to a place of safety or shelter.

In any criminal domestic violence incident, officers will provide the victim with a victim services information sheet detailing resources available to the victim.

If an officer has probable cause to believe that a crime has been committed, the officer shall exercise arrest powers with reference to the criteria in RCW 10.31.100. If the

suspect is not present for arrest, officers will broadcast probable cause for arrest and make a reasonable effort to locate and arrest the suspect.

Because of the heightened risk to victims, families, law enforcement and the public associated with access to firearms in these periods of volatility, documenting and attempting to take temporary custody of non-evidentiary firearms for safekeeping until the suspect is seen by a judicial officer is part of the law enforcement officer's community caretaking function. During interviews of victims, witnesses, and suspects, officers will inquire of all parties involved about recent and prior suspect possession of, access to, and control over firearms. This includes firearms that may be in the residence but are owned by other parties, firearms that are stored or kept in locations outside of the residence or location of the incident, and firearms held by other family members for the suspect. Officers will provide as much detail as possible about such firearms in the police report **and** (Snohomish County) Superform narratives. When access to firearms is indicated officers will ask to take the firearms into custody to hold for safekeeping.

Court orders are issued by the courts to protect victims of domestic violence and to prevent possession of firearms by domestic violence offenders or others who exhibit that they are at a high risk of harming themselves or others.

Officers will attempt to locate and serve Respondents to such orders in a timely manner and to enforce the terms of the court orders. Officers responding to an order violation call will complete a thorough investigation. Officers will enforce any order restricting the Respondent's ability to have contact with a victim by arresting and taking the Respondent into custody when the officer has probable cause to believe that the Respondent has violated the terms of that order. If the suspect is not present for arrest officers will broadcast probable cause for arrest and make a reasonable effort to locate and arrest the suspect.

Officers serving an Order to Surrender Weapons will check the initial report and the supporting documentation in the order in an attempt to determine all firearms the Respondent may be in possession of or have access to. If the Respondent does not fully comply with the surrender of known or suspected firearms, denies possession of firearms, or reports that firearms have been transferred to another party or sold, officers will conduct investigation to help verify or disprove Respondent/Restrained Person's claim. Officers will obtain a statement from Respondent/Restrained Person, if possible, and a signed form "Declaration of Non-Surrender."

Officers will attempt follow-up contact with the party the Respondent/Restrained Person claims to have given the firearm(s) to for verification of the claimed transfer. If appropriate, particularly if the party denies receiving the firearm(s), a witness statement will be obtained.

Officer Safety, Victim Safety

Domestic violence calls can be highly emotional situations and should be considered as an officer safety risk as well as a risk to victims. Officers will always approach in-progress domestic violence incidents using appropriate caution and tactics.

TYPES OF ORDERS

(See also: <https://wscadv.org/wp-content/uploads/2015/06/WA-State-Civil-Safety-Order-Comparison-Chart.pdf>)

Court orders come in many forms and may be issued by a Superior Court, Juvenile Court, District Court, Municipal Court, other states, or a Tribal Court. For some orders, the court may issue an Ex Parte Order (a temporary/emergency order obtained after hearing only from the Petitioner) that is effective until the court holds a hearing with both the Petitioner and Respondent having been given notice of the hearing. Different types of orders include:

1. No Contact Order – No Contact Orders may be imposed as part of a criminal proceeding, usually during a defendant’s first court appearance. The order is served in court, and does not require a petition, request, or approval from the victim. No Contact Orders can be issued in any Superior, District or Municipal Court. No Contact Orders may be issued for the following types of criminal events:
 - a. Domestic Violence (RCW 10.99)
 - b. Promoting Prostitution (RCW 9A.88)
 - c. Trafficking (RCW 9A.40)
 - d. Harassment (9A.46) Obtained by a person alarmed, annoyed or harassed by another person.
 - e. Stalking (RCW 7.92.160) When any person charged with or arrested for stalking as defined in RCW 9A.46.110 or any other stalking-related offense under RCW 9A.46.060 is released from custody before arraignment or trial on bail or personal recognizance, the court authorizing the release may prohibit that person from having any contact with the victim. If there is no outstanding restraining or protective order prohibiting that person from having contact with the victim, and the victim does not qualify for a domestic violence Protection Order under chapter RCW 26.50, the court authorizing release may issue, by telephone, a stalking no-contact order prohibiting the person charged or arrested from having contact with the victim or from knowingly coming within, or knowingly remaining within, a specified distance of a location.

Note: An “Order to Surrender Weapon Issued without Notice” may be entered at the time the No Contact Order is issued. Personnel should be prepared to accept weapons being surrendered following the service of a No Contact Order in court. Refer to the “Service of Orders” section for more details.

2. Protection Orders and Ex Parte Protection Orders – Includes many types of civil order obtained by a person who has been: assaulted or who fears abuse, a victim of stalking, a victim of sexual assault, or who has experienced a pattern of harassment. These types of orders are issued at the request of an alleged victim. Presence of a related criminal case is not required. Protection Orders are most often issued by Superior and District Courts. Some Municipal Courts accept Protection Order filings, but not all. Some orders must originate in District Court,

while others can be filed directly into Superior Court. When the person seeking protection alleges that harm could result if an order is not issued immediately without prior notice to the Respondent, the court may grant an Ex Parte Temporary Protection Order, which lasts until the full hearing, for which the Respondent will be served notice. Some Temporary Orders entered in District Court will be transferred to Superior Court for the full hearing (most commonly when children are involved.)

The following types of Protection Orders are available:

- a. Domestic Violence (RCW 26.50)
- b. Vulnerable Adult (RCW 74.34) Obtained by a vulnerable adult or an interested person on behalf of a vulnerable adult.
- c. Stalking (RCW 7.92) Obtained by a person who does not qualify as a family or household member for a Protection Order under RCW 26.50 and who is a victim of stalking conduct. The order can also be obtained by an interested person on behalf of a vulnerable adult or the legal guardian of a minor child.
- d. Sexual Assault (RCW 7.90) Obtained by a person who does not qualify for a Domestic Violence Protection Order and is a victim of non-consensual sexual conduct or non-consensual sexual penetration, including a single incident.
- e. Anti-Harassment (RCW 10.14) Obtained by a person who does not qualify for a Stalking Order and who is the victim of unwanted continuing contact that seriously annoys, alarms, or causes distress. Courts often require a showing that the person being harassed has made it clear to the other party that they want no further contact. There are filing fees for this type of order but fees can be waived if the person filing is low-income.

Note: An “Order to Surrender Weapon Issued without Notice” may be entered at the time that any of the above Temporary Protection Orders are issued (with the exception of a Vulnerable Adult Protection Order). Personnel should look through all order paperwork sent for service to determine if this order has been granted with the Ex Parte Temporary Order. Refer to the “Service of Orders” section for more details.

3. Restraining Order and Ex Parte Restraining Order (RCW 26.09, 26.10, 26.44) – Temporary and Permanent Restraining Orders are generally filed as part of an existing family law case, generally in conjunction with divorce proceedings or child custody cases. Restraining Orders may also be granted when there are allegations of domestic violence, child sexual or physical abuse by a parent or family member. Orders to Surrender Weapons can also apply to these types of orders.
4. Order to Surrender Weapons (OTSW) and Order to Surrender Weapon Without Notice (OTSWWN) (RCW 9.41.800) – Depending on the facts, a court must or may order a party to surrender any firearm(s) or other dangerous weapon(s). The court directs surrender to law enforcement, to the party's legal counsel, or to any

person designated by the court. An OTSW is generally issued in conjunction with other orders and requires a Respondent/Restrained person to:

- a. Immediately surrender all firearms or other dangerous weapons;
 - b. Immediately surrender any concealed pistol license issued under RCW 9.41.070;
 - c. Prohibit the party from obtaining or possessing firearms or other dangerous weapons;
 - d. Prohibit the party from obtaining or possessing a concealed pistol license.
5. Extreme Risk Protection Order (ERPO) (RCW 7.94) – A court order that temporarily suspends a person’s right to possess firearms if there is evidence that the person is threatening to harm him or herself or others. Unlike a No Contact Order or Protection Order, ERPOs do not restrict contact with persons or locations. ERPOs are limited to restricting possession of and access to firearms. Because of the risk of violent behavior, the person, who is called a “Respondent” in the ERPO, is ordered by the court to immediately turn over all firearms and any concealed pistol license to law enforcement. The Respondent is also directed not to have a firearm in his or her custody or control, and not to purchase, possess, receive, or attempt to purchase or receive a firearm.

A family or household member or a law enforcement officer or agency may ask the court to issue an ERPO by filing a petition. No criminal case is needed. RCW 7.94 defines family or household member differently than Washington State Domestic Violence law (see Definitions section for detail).

6. Ex Parte Extreme Risk Protection Orders – This Temporary Order is issued by the court without notification to the Respondent. A full ERPO must be issued by Superior Court following a hearing with notice to the Respondent; however, an Ex Parte ERPO may be initially issued by District or Municipal court and transferred by the court to Superior Court for the full hearing and final order (RCW 7.94.030(10)) and (RCW 7.94.050).

Petitioners may request the issuance of an Ex Parte ERPO prior to a full hearing, by including facts in the Petition that based on personal knowledge the Respondent poses a significant danger of causing personal injury to self or others in the near future by having in his or her custody or control, purchasing, possessing, or receiving a firearm. Providing notice of the hearing to the Respondent may increase the danger to the Petitioner or others. The court may factor this in their decision to issue an Ex Parte ERPO.

If a court finds there is reasonable cause to believe that the Respondent poses a significant danger of causing personal injury to self or others in the near future by having in his or her custody or control, purchasing, possessing, or receiving a firearm, (and may also note that providing notice increases danger to the Petitioner or others), the court shall issue an Ex Parte ERPO.

ORDER VIOLATIONS

A violation of an order may constitute a criminal offense if:

1. The order was in place AND
2. The offender knew about the order AND
 - a. The offender engaged in any type of prohibited contact, OR
 - b. The offender possessed or attempted to possess a firearm (ERPO/OTSW/DVPO)

*Note: Proof of service is not required to establish that an offender has knowledge of an order.

Violations may be:

- Gross Misdemeanor – If the violation did not involve an assault or reckless endangerment and if the Respondent/Restrained Person does not have two prior convictions for violating an order.
- Class C Felony (for some types of Protective Orders) – If the Contact involved assault or reckless endangerment or if the Respondent/Restrained Person has two or more prior convictions for violating an order

Personnel are encouraged to contact and consult with appropriate prosecutors regarding questions about Court Order violations. Personnel should also contact the Law Enforcement Agency responsible for entering the order to do a hand search if they do not see the order in WACIC but have reason to believe an order exists. Per RCW 26.50.115(3), presentation of an unexpired, certified copy of a Protection Order with proof of service is sufficient for a law enforcement officer to enforce the order regardless of the presence of the order in the law enforcement computer-based criminal intelligence information system.

Mandatory Arrests for Some Court Order Violations

Depending on the type of order in existence and the type of restraint provision violated, arrest may be mandated under one or more of the following three statutes.

1) **RCW 10.31.100(2)(a) states that** officers are mandated to make an arrest upon determining probable cause that the Respondent/Restrained Person has violated the terms of an order issued under one of the following statutes in the following manner: by committing an act or threat of violence, and/or going onto the grounds of or entering a residence, workplace, school, or day care, or knowingly coming within or remaining within, a specified distance of a location prohibited in the order. **This applies to the following orders:**

RCW 7.92
RCW 7.90

Stalking Protection Order
Sexual Assault Protection Order

RCW 9A.46	Criminal Stalking No Contact Order
RCW 10.99	Criminal No Contact Order
RCW 26.09	Civil Restraining Order ***
RCW 26.10	Civil Restraining Order ***
RCW 26.26	Civil Restraining Order ***
RCW 26.50	DV Order of Protection
RCW 74.34	Vulnerable Adult Protection Order

*** These orders must state violation of the order with notice is a criminal offense and will subject a violator to arrest, and the specific term of the order violated must be identified as a criminal offense.

RCW 10.31.100(2)(a) also provides for mandatory arrest upon determining probable cause that the Respondent/Restrained Person has violated a Temporary Restraining Order for Child Abuse under RCW 26.44.063 by violating **any provision of the order**.

With regard to Foreign Protection Orders in RCW 26.52.020, arrest is mandated by RCW 10.31.100(2)(a) upon determining probable cause exists that the Respondent/Restrained Person violated a restraint provision that:

- Restrains person from contacting or communicating; or
- Excludes person from a residence, workplace, school, or day care; or
- Prohibits person from knowingly coming within, or knowingly remaining within, a specified distance of a location; or
- Any provision that the order specifically indicates that a violation of that provision will be a crime.

2) **RCW 26.50.110** also mandates arrest for violations of orders issued under the same statutes as those addressed in RCW 10.31.100(2)(a) plus three more (highlighted). Under RCW 26.50.110 arrest is mandated for **any violation**, so long as the order includes a restraint provision that “restrains the person, or excludes the person from a residence, workplace, school, or day care, or prohibits the person from knowingly coming within, or knowingly remaining within, a specified distance of a location.” This applies to the following orders:

RCW 7.92	Stalking Protection Order
RCW 7.90	Sexual Assault Protection Order
RCW 9A.46	Criminal Stalking No Contact Order
RCW 10.99	Criminal No Contact Order
RCW 26.09	Civil Restraining Order
RCW 26.10	Civil Restraining Order
RCW 26.26	Civil Restraining Order
RCW 74.34	Vulnerable Adult Protection Order
RCW 26.52	Foreign Protection Orders
RCW 9A.40	Criminal No Contact Order (Anti-Harassment)
RCW 9A.88	Promoting Prostitution No Contact Order

3) **RCW 10.99.055** specifically addresses any criminal no contact orders issued by the courts. This statute mandates that officers shall enforce any order issued by a court in the state that restricts a defendant's ability to have contact with a victim by arresting and taking the defendant into custody when the officer has probable cause to believe the defendant has violated the terms of the order. Similar to RCW 26.50.110, this statute mandates arrest for any violation of a criminal no contact order.

ENTRY OF ORDERS RECEIVED FROM COURT

The law enforcement agency has responsibility for entering court orders into the state (WACIC/NCIC) and local databases. Orders, including Temporary Orders, should be entered the same day they are received whenever possible so that all law enforcement personnel are aware of them. Timely and complete entry is also important to ensure proper tracking of orders and to be able to work effectively inter-jurisdictionally.

The agency entering orders into state and local databases is generally the law enforcement agency with jurisdiction for where a Petitioner resides. If an order was issued by a jurisdiction's Municipal Court, that jurisdiction should enter the order regardless of where the Petitioner resides. The agency serving the order is the law enforcement agency with jurisdiction for where the Respondent/Restrained Person resides. If both Petitioner and Respondent/Restrained Person reside in the same city, the law enforcement agency with jurisdiction will both enter and serve the order.

Personnel should also notify the law enforcement agency that issued the CPL to have them inactivate the CPL.

PREPARING ORDER FOR SERVICE:

CREATING INFORMATION AND SERVICE PACKET

The police agency records division, and/or other designated unit(s), will conduct research regarding the Respondent/Restrained Person's history and known firearm(s) possession, and create a packet of information for personnel serving the orders. This will help ensure that service is successfully completed and will reduce risks associated with the service.

The information packet should include the following research and documents **(these documents are not provided to the Respondent/Restrained Person)**:

- The form "Court Order Pre-Service Information Packet";

- The form “Law Enforcement Information Sheet – ERPO” or “Law Enforcement Information Sheet – Standard Orders”;
- A copy of the completed form “Firearms Identification Worksheet” if available, indicating Petitioner’s first-hand information on the types of firearms and the likely location of known firearms;
- Whether the Respondent/Restrained Person has any outstanding warrants or has knowingly attempted to acquire a firearm in violation of federal or state law, or has been denied an application to purchase or transfer a firearm as the result of a background check that indicates the Respondent/Restrained Person is ineligible to possess a firearm under state or federal law. (WACIC/NCIC check);
- Known information about the Respondent/Restrained Person’s in-custody status;
- Information from State DOL regarding any concealed pistol license and pistol transfers, and firearm purchase history;
- Information from the Washington State Department of Fish and Wildlife regarding hunting licenses and tags;
- Pawn history through “Leads on Line” (www.leadsonline.com) for history of firearm purchases, sales, or holds for loans;
- Prior CAD reports that may indicate firearm ownership or possession;
- Review of the “Firearm Identification Sheet” if included in the service packet from the court;
- State DOL photograph of Respondent/Restrained Person;
- Local / Agency records of Respondent/Restrained Person; and
- The Law Enforcement Information Sheet (LEIS), for law enforcement personnel use only.

The service packet, to be served on the Respondent/Restrained Person, should contain the following documents:

- Petition for the order and any law enforcement affidavit(s), declaration(s), or other reports or documents incorporated into the petition by reference
- Law Enforcement Addendum to the Petition (for ERPOs where law enforcement is the Petitioner)
- Temporary order and Notice of Hearing
- Order to Surrender Weapons Without Notice (this may not always be issued with an order or temporary order)
- Proof of Surrender form
- Order Transferring Case to Superior Court (if an ERPO Ex Parte Order was obtained in Municipal or District court)
- Instructions explaining how weapons are to be surrendered when applicable

If a court order is not sufficient for service (e.g. expired order, unsigned order, wrong address, etc.), law enforcement personnel should contact the Court Orders Problem-Solver (King County agencies) or clerk of the issuing court (other counties) to resolve the problem if possible, and efforts should be made to notify the Petitioner.

SERVICE OF ORDERS

Risk Assessment

Some orders may carry more risk for the Protected Person, family, community, or law enforcement, and should be prioritized for service. After the information and service packet is completed it will be immediately submitted to an on-duty supervisor for review and evaluation of service requirements.

The reviewing supervisor should conduct a written risk assessment on all orders involving the surrender of weapons, including Extreme Risk Protection Orders. Prioritization of all other orders should be based on the Risk Assessment criteria noted below.

In conducting the review, the reviewing supervisor should keep in mind that the risk of lethality to a Petitioner is heightened upon a Respondent/Restrained Person's first notification of an order. Timing of order service and any required surrender of weapons should be prioritized to occur as expediently as possible based on factors considered in the risk assessment.

High-risk orders should not be served with fewer than two officers and one supervisor.

Factors that should be taken into consideration during the risk assessment include:

- Prior incidents of assault (domestic violence and non-domestic violence)
- Prior incidents of assault or threat against children
- Prior incidents of assault against law enforcement
- Any type of physical violence, stalking or sexual harm toward victim
- Threat to harm or kill victim or others
- Conviction or arrest involving violent acts
- Presence of firearms or other dangerous weapons
- History of alcohol or substance abuse
- Violence against animals
- Behavioral crisis indicative of dangerousness to self and/or others including suicidality.

Order Service

1. Prior to serving the order, assigned personnel should read the order and the petition thoroughly and verify that the correct person is being served.
2. Prior to serving the order, assigned personnel should verify all firearms identified in the order as well as review any available information that would identify additional firearms owned or possessed by the Respondent/Restrained Person, including the police reports leading to the order. All firearms must be surrendered upon service, even those not specifically listed in the order. (See: Preparing Order for Service: Creating Information and Service Packet)

3. Service is not considered valid unless the Respondent/Restrained Person is personally served, has knowledge of the order, or unless the court specifies otherwise.
4. The first attempt at service shall occur within 24 hours of receiving the completed order and service packet. If the first attempt is not successful, no fewer than two additional attempts should be made to serve the order. If the Respondent/Restrained Person was determined to be high-risk, additional attempts at service should be made.
5. Each attempt at service should be noted in the Service Packet and reflected in CAD records, with date, time, address, and the reason service was not completed. Any known or suspected attempts by a Respondent/Restrained Person to avoid service should also be noted on the Return of Service form.
6. Service should be completed at least five court days prior to the hearing date (business days - Monday through Friday, excluding holidays) wherever possible so that the court hearing is not delayed, which can result in ongoing risk to the victim. However, service attempts should continue until the date of the hearing.
7. If the Respondent/Restrained Person is in the Protected Person's presence at the time of contact for service, serving personnel should take reasonable steps to separate the parties when possible prior to completing the service or inquiring about or collecting firearms.
8. If the Respondent/Restrained Person is served in the Protected Person's presence, serving personnel should take reasonable steps to help safeguard the Protected Person. (See *Washburn v. Federal Way*, 178 Wn.2d 732 (2013)). These steps also apply to civil standbys. Personnel should document any steps taken to ensure Protected Person's safety. Examples of reasonable steps may include:
 - If the order is served at the Protected Person's home, personnel should remain on-scene until the Respondent/Restrained Person departs.
 - If the order is served at the Respondent/Restrained Person's home, personnel should remain on-scene until the Protected Person departs.
 - If the order is served at a third-party location, personnel should remain on-scene until either the Respondent/Restrained Person or the Protected Person departs.
 - Assisting the Protected Party with transportation arrangements to a location of safety.
9. If the Protected Person has provided information about additional firearms the Respondent/Restrained Person has access to, personnel should take reasonable steps to obtain them in accordance with this policy/procedure.

10. Personnel completing the service should take steps, when needed, to ensure that the Respondent/Restrained Person understands the order (e.g. use of an interpreter).
11. Expired court orders shall not be served and should be returned to the Court Orders Problem-Solver in the Regional Domestic Violence Firearms Enforcement Unit (King County agencies), or issuing court (other counties).
12. Unsigned court orders shall not be served and should be Court Orders Problem-Solver in the Regional Domestic Violence Firearms Enforcement Unit (King County agencies), or returned to the issuing court (other counties)
13. Attempts should be made to notify the Petitioner if an order cannot be served.

Successful Service of Orders

1. Provide the Respondent/Restrained Person with copies of all the forms, **EXCEPT**:
 - Law Enforcement Information Sheet (LEIS)
 - Supplemental Law Enforcement Information Sheet – Firearms (if applicable)
 - Return of Service Sheet
2. Complete the Return of Service form. Note that **every box must be marked** for each document that was required to be served or the court may determine that the service was incomplete and will require a continuance and further attempts to serve the Respondent/Restrained person to ensure proper service. These delays can result in additional risk to the Protected Person. Sign and date the form. Agency's procedure may also include immediate notification of the records unit of the time and date service was completed.
3. Document on the Return of Service form any behavior or pertinent evidence (e.g. belligerence at time of service, threats, avoidance of service, description of firearms seen at the time of service, as well as Respondent's statements regarding possession of the firearms). This kind of information will not be available to the court unless it is included on the Return of Service form.
4. A supervisor should review the completed Return of Service form for thoroughness and quality control.
5. Attempt to notify the Petitioner/Protected Person if phone or email contact information has been provided.

Unsuccessful Service of Orders

If attempts at service are not successful, complete the Return of Service form or the form letter showing that the order was not served, stating the reason. Include all attempts made to serve the Respondent/Restrained Person, including any avoidance

attempts made by the Respondent/Restrained Person. Efforts should be made to contact the protected party about the inability to serve, using the email or phone number provided.

ORDER TO SURRENDER WEAPONS

No Contact Orders, Protection Orders, and Restraining Orders may also include an Order to Surrender Weapons (OTSW). No Contact Orders issued by the court may have limited information about what firearms the Respondent possesses or has access to. Typically, in Protection Orders, Restraining Orders, and Extreme Risk Protection Orders, the Petitioner will provide information as to the number and types of firearms the Restrained Person possesses, if it is known. Personnel should follow these procedures when serving an OTSW:

1. Follow the instructions provided in the court order.
2. Although the order may identify specific firearm brands and models to be surrendered, personnel should also ask the victim/petitioner separately for ALL firearms to which a Respondent/Restrained Person has access to or is in possession of, in addition to any firearms specifically listed in the order. Personnel should review any available information that would identify additional firearms owned or possessed by the Respondent/Restrained Person, including the police reports leading to the order. All firearms must be surrendered upon service, even those not specifically listed in the order.
3. Advise the Respondent/Restrained Person that the court has ordered that all firearms in his or her custody, control, or possession, and any CPL, must be immediately temporarily turned over to law enforcement for safekeeping.
4. Explain to the Respondent/Restrained Person this is a temporary court order, law enforcement will retain the firearms for safekeeping, and s/he can contest it at the hearing.
5. If the Respondent/Restrained Person denies possession of firearm(s) or reports that firearms have been transferred to another party or sold, conduct basic investigative steps to help verify or disprove Respondent/Restrained Person's claims, to include contacting the party the Respondent claims to have transferred the firearms to. Obtain a statement if possible and a signed "Declaration of Non-Surrender." Note on the Return of Service if Respondent/Restrained Person asserts he or she possesses no weapons or a CPL. Be aware of RCW 9.41.113 regarding lawful sales and transfers.
6. Ask the Respondent/Restrained Person if s/he will consent to a search. (*Refer to specific agency policies concerning search procedures.*)
7. Take possession of all firearms that are surrendered, are in plain view, or are discovered pursuant to a lawful search. If there is probable cause to believe that the

Respondent/Restrained Person still has custody, control, or possession of other firearms, consider application for a search warrant. For victim and officer safety, every lawful effort should be made to obtain any and all firearms at the time of the order service, rather than asking the Respondent/Restrained Person to bring firearms to the agency at a later date.

8. In order to reduce risk of lethality and harm, if the Respondent/Restrained Person is not physically located where his/her firearms and CPL are located, transport or follow him or her to retrieve all firearms and the CPL whenever practicable.
9. If a Respondent/Restrained Person is served in court or via mail/publication, he or she may surrender firearms and CPL to law enforcement within 48 hours of receiving notice, rather than immediate surrender. Follow-up should be done to ensure this occurred.
10. Provide a receipt for all surrendered firearms and CPL to the Respondent/Restrained Person (use form "Receipt for Surrendered Weapon and Concealed Pistol License"). Keep a copy for agency files. The original is to be filed with the court within 72 hours after the service of the order.
11. Book the firearms into the property room as either "safekeeping" or "evidence" as appropriate and according to Department procedure.
12. Complete and sign the Return of Service form and mark the appropriate box for surrender of firearms.
13. Every box must be marked for each document that was required to be served or the court may find that the service was incomplete and will require further service of the Respondent/Restrained Person. Note that there are separate boxes for Orders to Surrender Weapons.
14. Attempt to notify the Petitioner/Protected Person if phone or email contact information was provided.

REFUSAL TO SURRENDER WEAPONS

An Order to Surrender Weapons or Extreme Risk Protection Order does not by itself, grant personnel authority to enter homes to seize firearms or effect an arrest. Depending on the specific facts and observations available to personnel at the time of service there may be articulable exigencies. When considering the heightened risk to victim(s), family, community and officer safety in these periods of heightened volatility, it is frequently prudent under the community caretaking function for personnel to proceed in removing firearms for safekeeping without first obtaining a search warrant. Personnel will, if feasible, consult with an on-duty supervisor in such situations, and are encouraged to consult with the police legal advisor for further guidance in this area as necessary.

If a Respondent/Restrained Person refuses to surrender firearms and/or CPL, he or she should be advised that possessing or acquiring a firearm or CPL is prohibited and that violating the order may subject the Respondent/Restrained Person to criminal and civil penalties.

If a Respondent/Restrained Person states they do not possess any firearms and there is probable cause to believe otherwise, personnel should request consent for a search. (*Refer to specific agency policies for consent to search procedures*) Failure to turn over firearms as mandated by an ERPO **must** be reviewed by the courts. If firearms are not surrendered as directed by an ERPO officers will complete a report documenting the incident for court review. See “Non-surrender” and “Search Warrant” sections under the following ERPO portion of this document.

If the Respondent/Restrained Person fails to comply with the surrender of firearms as directed by the order, fails to provide consent for a search, and there is probable cause to believe that the Respondent/Restrained Person possesses or has access to firearms, personnel may apply for a search warrant.

- Absent exigent circumstances, or an articulable community caretaking function, or probable cause for another crime, personnel do not have legal authority to detain a Respondent/Restrained Person during OTSW or ERPO service, including the time while applying for a search warrant.

EXTREME RISK PROTECTION ORDERS (ERPOs)

An Extreme Risk Protection Order is intended to temporarily prevent individuals who are at high risk of harming themselves or others from possessing or accessing firearms. Family, household members, and police agencies may obtain an ERPO when there is evidence that a Respondent/Restrained Person poses a significant danger, including danger as a result of dangerous behavioral health crisis or violent behavior.

With an ERPO, there is no separate Order to Surrender Weapons. The order itself is the order to surrender. The service of ERPOs takes precedence over the service of other orders, unless the other orders are of similar emergency nature. Due to the nature of these orders, the Respondent/Restrained Person may be uncooperative and present a significant danger to Petitioners and law enforcement.

When personnel encounter someone who expresses interest in petitioning for an ERPO, information should be provided to the person about what an ERPO is and that one may be obtained at Superior Court (or at District Court or Municipal Court for a temporary Ex Parte Order). Personnel should provide the person with an ERPO brochure or information on how to find additional resources. Available web resources include:

- <http://www.protectionorder.org>

- <https://www.courts.wa.gov/forms>

An ERPO is issued for one year by the court. The Respondent/Restrained Person may ask the court to cancel (terminate) the order once in the 12-month period but must prove that he or she no longer poses a significant danger to self or others by having access to firearms. The Petitioner may ask the court to renew the order for another year at any time after the order has been in effect for 260 days (as stated on the form, 105 days prior to the expiration of the order).

Unlike all other types of Protection Orders where only the victim may petition for the order, a law enforcement officer may petition the court for an ERPO (RCW 7.94.030). If there is reasonable belief that a person is a present danger to him/herself or another person by controlling, owning, purchasing, possessing, receiving or otherwise having custody of a firearm and an officer believes an ERPO would assist, the officer should review the circumstances with his/her on-duty supervisor. The supervisor will review any requests to petition the court for an ERPO with a command staff officer to approve and coordinate a petition through the department. ERPOs may provide law enforcement an alternative for situations where the criteria for a domestic violence relationship may not be present.

Personnel petitioning the court must use the ERPO petition and order forms created by the Administrative Office of the Court and found in this index. (In Snohomish County, forms can be found in the S.C. Justice Portal in the “DV and ERPO Forms” folder at <https://snohomishcountywa.gov/2453/Justice-Portal>.) In addition, the Law Enforcement Agency Addendum to the Petition, the Law Enforcement Affidavit, and declaration forms are available in the forms section for Law Enforcement Petitioners and should be submitted with the ERPO petition.

Every court document related to the ERPO (petition, temporary order, addendum, affidavits and declarations) must be completed in full, signed, and dated.

Law Enforcement ERPO Petition Procedure

Law enforcement personnel should obtain approval from and coordinate with command personnel prior to submitting a petition on behalf of the Department for an Extreme Risk Protection Order. Consideration should also be given to consulting with the Regional Unit prosecutors (King County), department’s legal advisor or local prosecutor.

Personnel should follow these procedures to petition for any ERPO:

1. Complete appropriate ERPO Petition forms. The forms are located:
 - a. At www.protectionorder.org.
 - b. In this document’s index.

- c. For department's located in Snohomish County: In the "DV and ERPO Forms" folder at the Snohomish County Prosecutor's law enforcement forms website at <https://snohomishcountywa.gov/2453/Justice-Portal>.

The form "Petition for Extreme Risk Protection Order" must be completed in full, but has limited space for law enforcement information. The petition may have an affidavit from the petitioning officer, declarations from other involved officers, and/or redacted copies of a related police report attached to the petition by noting in the petition that the "attached (affidavit of, declaration of, and/or police report #) is incorporated herein by reference." Attached affidavits or declarations should provide a detailed description of law enforcement information leading to the request for an ERPO. The forms "Law Enforcement Affidavit" and "Law Enforcement Declaration" are included in this index for this purpose. A supplemental Law Enforcement Agency Addendum must also be completed to provide additional information to the court. Information in the **petition**, **affidavit**, **declaration**, and **addendum** should include the following:

- Detailed explanation of why the Respondent/Restrained Person poses a significant danger of injuring self or others by having in his or her custody or control, purchasing, possessing, or receiving firearms. Explanations may include:
 - A recent act or threat of violence by the Respondent/Restrained Person 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/Restrained Person against self or others;
 - Any behavioral issues of the Respondent/Restrained Person that might contribute to dangerousness;
 - The history of use, attempted use, or threatened use of physical force by the Respondent/Restrained Person against another person, or the Respondent/Restrained Person's history of stalking another person.
- The number, types, and locations of any firearms believed to be in the Respondent/Restrained Person's current ownership possession, custody, or control;
- Whether there is a known existing Protection Order governing the Respondent/Restrained Person, under chapter 7.90, 7.92, 10.14, 9A.46, 10.99, 26.50, or 26.52 RCW or under any other applicable statute;
- Whether there is a pending lawsuit, complaint, petition, or other action between the parties under the laws of Washington;
- Any known violation by the Respondent/Restrained Person 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 ERPO issued against the Respondent/Restrained Person;
 - A violation of a previous or existing ERPO issued against the Respondent/Restrained Person;
 - A prior arrest or conviction of the Respondent/Restrained Person for a crime that constitutes domestic violence as defined in RCW 10.99.020;
 - The Respondent/Restrained Person's ownership of, or access to, or intent to possess firearms;
 - Evidence of recent acquisition of firearms or attempts to acquire firearms by the Respondent/Restrained Person;
 - The unlawful or reckless use, display, or brandishing of a firearm by the Respondent/Restrained Person, to include discharge of the firearm;
 - Any prior arrest of the Respondent/Restrained Person for a felony offense or violent crime;
 - Corroborated evidence of the abuse of controlled substances or alcohol by the Respondent/Restrained Person;
 - Evidence of recent acquisition of firearms by the Respondent/Restrained Person; and
 - Police reports or other documents related to the ERPO petition may be referenced in the petition and “incorporated herein by reference.”
2. Complete the Law Enforcement Agency Addendum (LEA). The LEA Addendum to the Petition is for law enforcement petitioners only and provides additional information regarding the Respondent/Restrained Person.
 3. Complete the Law Enforcement Information Sheet (LEIS) ERPO. The LEIS should include the Respondent/Restrained Person’s full name, date of birth, address, and other identifying information (e.g. height, weight, eye color, driver’s license, etc.).
 4. In the case of a Temporary Order, prepare the Temporary Extreme Risk Protection Order form for the court and an Order Transferring Case to Superior Court if the temporary order is not being heard in Superior Court. In the case of the full hearing ERPO, Superior Court will complete the order.
 5. Personnel should make a good faith effort to provide notice to a family or household member of the Respondent/Restrained Person and any known third parties who have been specifically identified as being at risk of violence. Personnel will attempt

notification prior to filing the Petition, if possible, and if not possible, personnel will notify after filing the Petition. Notification attempts should be documented in the CAD or supplemental report.

6. Submit completed forms to the appropriate court. The court clerk will assign the Petition a case number and provide a date and time for the hearing. In the case of an ex parte ERPO, the hearing will occur on either the day the petition is filed or the next judicial business day. If a temporary order is not requested, the hearing to issue the order may take place in up to 14 days as it requires notice to the Respondent in advance of the hearing.
7. The law enforcement officer filing the petition on behalf of the department must attend all hearings. Officers filing declarations supporting the petition may not be required to attend the Ex Parte hearing. All officers should appear for the Superior Court full ERPO hearing and be prepared to testify if necessary. If any hearing is continued and law enforcement does not appear, the court may dismiss the ERPO Petition. The temporary ERPO expires at the time of the Superior Court full ERPO hearing unless otherwise continued by the court.

Ex Parte Extreme Risk Protection Orders

This temporary order is issued by the court without notification to the Respondent/Restrained Person. Petitioners may request that an Ex Parte ERPO be issued before a full hearing on the Petition, by including facts in the Petition that based on personal knowledge the Respondent/Restrained Person poses a significant danger of causing personal injury to self or others in the near future by having in his or her custody or control, purchasing, possessing, or receiving a firearm. If appropriate, the petitioner should note that providing notice of the hearing to the Respondent/Restrained Person may increase the danger to the Petitioner or others.

If a court finds there is reasonable cause to believe that the Respondent/Restrained Person poses a significant danger of causing personal injury to self or others in the near future by having in his or her custody or control, purchasing, possessing, or receiving a firearm, (and may also note that providing notice increases danger to the Petitioner or others), the court shall issue an Ex Parte ERPO.

Hearings Outside of Regular Court Business Hours

RCW 7.94 requires that Ex Parte ERPOs are issued either through a court hearing or by telephone. They may not be reviewed and issued electronically. If law enforcement has an emergency situation and needs to seek an Ex Parte ERPO during non-business hours (nights and weekends), law enforcement should contact the designated county on-duty prosecutor for guidance.

Service of ERPOs

ERPOs and Ex Parte ERPOs should be served in the same manner as Orders to Surrender Weapons. Police Records will complete a Court Order Pre-Service

Information Packet form and build the service packet, and then make the initial ACCESS entry.

A patrol supervisor will complete a risk analysis prior to service. Service will be completed with the appropriate resources based on the risk analysis, but in no case with fewer than two officers and one supervisor. Personnel should be cognizant there may be an escalated risk of danger to officers and Petitioners during and following the service of ERPOs.

Ex Parte ERPOs and ERPOs should be served concurrently with the notice of hearing, Order Transferring Case to Superior Court, Petition, Law Enforcement Agency Addendum, and any other documents required for service in the service packet (documents such as declarations and/or redacted police reports that were attached and incorporated in the Petition.

Upon service, the respondent is required to surrender all firearms under his or her control and any concealed pistol license (CPL). It is a crime for the respondent to be in possession of or in control of a firearm once the order has been served. Assigned officers will request voluntary surrender of all firearms and any CPL, and request permission to conduct a consensual search of the location. Officers will take possession of all firearms and any CPL voluntarily surrendered or lawfully discovered during the consensual search.

If all firearms possessed or controlled by the respondent are surrendered, an officer will complete the form "Receipt for Surrendered Weapons and Concealed Pistol License" and "Proof of Surrender" The officer will make three copies of the forms once completed, providing one copy to the respondent (who is responsible for filing the forms with the court), immediately turning in the second copy with the police case report, and attaching the third copy to the firearms being removed.

Non-surrender of Weapons

If the respondent claims that he or she does not possess or control any firearms or have a CPL, an assigned officer will request the respondent complete a statement form and sign the form "Declaration of Non-Surrender" explaining/verifying that the respondent has no firearms or a CPL to surrender. The officer must then complete a police case report documenting the incident. The officer will consult the legal advisor and advise of the non-surrender.

RCW 7.94.090 mandates that in any case where firearms were not surrendered as required the courts will hold a hearing to determine if probable cause exists to believe the respondent failed to surrender weapons and, if so, the court will issue a warrant authorizing a search of the places where the firearms are reasonably believed to be located. The agency legal advisor will work with the department to provide the information needed by the courts for a hearing to review the case.

Regardless of what court issued the ERPO, a local court will be considered as the first option for conducting a hearing related to non-surrender. The local court will coordinate with the court that issued the ERPO to determine which court is best situated to hold the hearing.

Search Warrant

If a search warrant is issued by a court following a review of non-surrender, the search warrant will be given to an on duty supervisor for review and coordination of service. The supervisor will see that a risk analysis is completed based on the available information and manage service of the search warrant.

If firearms are located during a search, new "Receipt for Surrendered Weapons and Concealed Pistol Licenses" and "Proof of Surrender" forms will be completed to document the firearms being taken, and a copy left at the location with a copy of the warrant and the inventory.

Notification to Courts

Officers will complete a Return of Service and file all documents with the appropriate law enforcement records unit, who will forward a copy of all Receipt for Surrendered Weapons and Concealed Pistol Licenses and Proof of Surrender forms to the court where the order was issued. If a search warrant is being obtained from a court other than the issuing court, the department will inform the originating court of the petition for the warrant and the outcome.

Renewal of Extreme Risk Protection Orders

The law enforcement records unit will monitor all ERPOs obtained by the department, and advise the office of the Chief of an upcoming expiration not less than 30 days prior to the expiration of the order. The Department will evaluate the order to determine if a renewal should be requested through the courts.

SURRENDER, STORAGE AND RETURN OF FIREARMS

In the interest of public safety, it is the policy of this department to accept surrendered firearms regardless of where a Respondent/Restrained Person resides, and to record which firearms were surrendered and when, to ensure that verification of compliance with the Court Order can be determined.

Surrender by appointment (*When allowed by agency*):

1. Respondent/Restrained Person may call the law enforcement agency to schedule an appointment to surrender firearms and CPL. In the interest of public safety, appointments should be scheduled at the soonest opportunity. Respondent/Restrained Person should also be advised of the potential for delay based on personnel availability, even with a scheduled appointment.
2. Respondent/Restrained Person should be advised to come to the agency at the appointed time with their unloaded firearms in vehicle and transported in accordance

with State law (RCW 9.41). Respondent/Restrained Person should be advised to leave the firearms and ammunition inside the vehicle and contact police staff. No firearms should be brought into the agency building by the Respondent/Restrained Person. Note: in some cases Respondent/Restrained Persons may appear in department facilities in possession of firearms in order to surrender them without an appointment. These subjects may not be aware of the department's preference to leave such firearms secured outside the facility. In such cases, if an officer is present, the officer should immediately take custody of any firearms. If no officer is present civilian staff will ask the Respondent/Restrained Person to secure the firearm in their vehicle before returning to the facility to wait for an officer. Civilian staff will not take possession of firearms.

3. Police personnel should take the surrendered firearms, ammunition and CPL into agency custody immediately and, if possible, with the Respondent/Restrained Person and any other persons away from the vehicle or location of the firearm(s).
4. Personnel should check WACIC/NCIC to ensure that any firearm is not listed as stolen and that all identified firearms have been surrendered.
5. Personnel should complete the Proof of Surrender form and the Receipt for Surrendered Weapons and Concealed Pistol License and provide a copy of the forms to the Respondent/Restrained Person, route a copy to the appropriate court that issued the order to surrender weapons, and attach a copy to the agency case file.
6. Personnel should complete a report (or follow-up) to be added to the agency case file.

Surrender by Walk-in

Same as steps 3 through 6 above. Respondent/Restrained Person should be encouraged to wait for available personnel if the agency anticipates a delay by responding personnel.

Storage of Firearms

Firearms and CPLs surrendered under RCW 9.41.800 (Surrender of Weapons or Licenses) should be stored for safekeeping pursuant to the procedures in the agency Property and Evidence Manual.

Return of Firearms and CPL

All surrendered firearms shall be held in police custody at least twenty-four hours before they are released. The Respondent/Restrained Person must have proper identification and authority from the court for the firearms and CPL to be returned. In addition, the Protected Person or family members could be at greater risk after a firearm is returned. Timely notification to the Protected Person of any firearms to be returned may help reduce the risk of violence or lethality.

Firearms surrendered pursuant to a Court Order should only be returned to the rightful owner:

- Pursuant to proof of a specific court order revoking the Surrender Order and granting the release of the firearms at issue, subject to the Respondent/Restrained Person's eligibility to possess firearms; or
- To a new owner if the Respondent/Restrained Person has transferred ownership, with affidavits from both parties confirming transfer of ownership, following a background check on the new owner, and with the new owner attesting that Respondent/Restrained Person will not control, possess, or have access to the firearms.

Prior to the return of a firearm or CPL, Evidence personnel should conduct a background check to ensure the individual can lawfully possess a firearm. The background check should include, but not be limited to, checking the following sources:

- NCIC III / WACIC – Check for protection orders, felony or DV warrants, or active DOC status.
- NICS – Obtain an NTN number.
- JIS / DISCUS / JABS (if agency has access) – Check for pending cases that may not be included in the NCIC check. Check for disqualifying juvenile convictions.
- DSHS – Request mental health background check.
- DOL – Check for a Concealed Pistol License or registered firearms.

Evidence personnel should also ensure confirmation of the following:

- That the individual to whom the firearms are to be returned is the individual from whom the firearms were obtained, or an authorized representative of that individual, or the legal owner of the firearms, or another person identified by a Court Order.
- Proof of a Court Order authorizing release of the firearms and CPL.
- The Protection Order has expired by its terms or is dismissed and is no longer in effect.
- The Order was a temporary order that has expired and the court denied a motion for a permanent order.
- The Order has been modified by the court and the person is no longer prohibited from possessing firearms.
- The firearms are not required to be held for evidence or another reason.
- If the owner is eligible to possess firearms but the agency has knowledge the owner lives with a person who is ineligible to possess firearms (felon, disqualifying DV convictions, No Contact and Protection Orders, etc.), the

firearms may not be released without a court order. Felons and others disqualified from possession are prohibited from actual or constructive possession.

- If a person other than the Respondent/Restrained Person claims title to any firearms surrendered and is determined by the agency to be the lawful owner of the firearm, the owner should be advised that he or she may request of the court that the firearm should be returned to him or her.

Required Notification –State law requires each agency to have a notification protocol that allows a family or household member to request to be notified when the agency returns a firearm(s) to the individual from whom it was obtained or to an authorized representative of that person. Evidence personnel will make every reasonable effort to make notification to the Protected Person and/or family or household member of the requested return of surrendered firearms within one business day of completing the background check. Notification may be made via phone, text message, e-mail, USPS, or another method that allows notification to be provided without unnecessary delay. Documentation of the notification will be made on the Firearm Background Checklist.

Once notification has been made, the firearm(s) shall be held in the custody of the Evidence/Property Room for at least 72 hours.

If it is determined a firearm cannot be released, within five business days of receiving the request, the Property Officer or their designee shall provide written notice to the requestor specifying the reason(s) the firearm cannot be released. The notification may be made via email, text message, mail service, or personal service. For methods other than personal service, service shall be considered complete once notification is sent. Documentation of the notification will be made on the Firearm Background Checklist.

Resources:

King County Regional Domestic Violence Firearms Enforcement Unit

The mission of the King County DV Firearms Unit is to reduce gun violence and increase victim and community safety through regional collaboration and proactive implementation of firearms laws. The Unit is available as a resource to Snohomish County police agencies with questions about Protection Orders, Orders to Surrender Weapons, and Extreme Risk Protection Orders.

516 Third Avenue, E400
Seattle, Washington 98104

Program Manager: Sandra.Shanahan@kingcounty.gov 206-477-1074

Unit Members (Prosecutors)

Krystle Curley: Krystle.Curley@Seattle.gov 206-684-7738
Michelle Larson: Michelle.Larson@KingCounty.gov 206-477-6224
Kim Wyatt: Kimberly.Wyatt@KingCounty.gov 206-477-1201

Snohomish County Prosecutor's Office Domestic Violence Unit

The Snohomish County Prosecutor's Office DV unit is available to provide DV related training to Snohomish County Law Enforcement Agencies and to provide assistance with questions about DV orders and DV cases/investigations.

Lead Prosecutor: Teresa Cox
Teresa.Cox@co.snohomish.wa.us
425-388-3674

On Call Prosecutor (after hours): Contact through Snohomish County 911 Dispatch

Public Materials, Brochure

www.protectionorder.org has extensive information about various orders to include an ERPO brochure meant for the public. Click on "ERPO", then "read more", then "forms and information" to reach the brochure.

RCWs

No Contact Orders:

- [10.99](#)
- [9A.88](#)
- [9A.40](#)
- [9A.46](#)
- [7.92.160](#)
- [9A.46.110](#)

- [9A.46.060](#)

Protection Orders:

- [26.50](#)
- [74.34](#)
- [7.92](#)
- [7.90](#)

Restraining Orders:

- [26.09](#)
- [26.10](#)
- [26.44](#)

Orders to Surrender Weapons:

- [9.41.800](#)
- [9.41.070](#)

Extreme Risk Protection Orders

- [7.94](#)

Ex Parte Extreme Risk Protection Orders

- [7.94.030\(10\)](#)
- [7.94.040](#)
- [7.94.050](#)

Mandatory Arrests

- [10.31.100\(2\)\(a\)](#)
- [26.50.110](#)