

TO: All Personnel
FROM: Jeff Shrader, Sheriff



DATE: April 24, 2019

SUBJECT: WRITTEN DIRECTIVE – EXTREME RISK PROTECTION ORDER

House Bill 19-1177, otherwise known as the “red flag bill,” recently passed, resulting in the enactment of new law, which creates an extreme risk protection order (ERPO). Provisions in this new law establishes certain responsibilities for law enforcement agencies and its personnel. This directive provides policy guidance for Jefferson County Sheriff’s Office personnel.

Extreme Risk Protection Order (ERPO) – is either a temporary order or a continuing order (also referred to as a three-hundred-sixty-four day extreme risk protection order) granted pursuant to C.R.S. §§ 13-14.5-101 to 114.

As stipulated in JCSO Policy 951, the Sheriff’s Office will protect the constitutional rights of all people. Through the application of our mission to serve, protect and enforce, we will carefully evaluate and weigh the rights of people to be free from unreasonable search and seizure, with the rights of people to be free from acts or threatened acts of violence, and respond in a reasonable and lawful manner. To that end, the following is effective immediately.

Members of the Sheriff’s Office will comply with the Sheriff’s statutory mandate to serve civil process in accordance with Rule 4 of the Colorado Rules of Civil Procedure and Rule 304 of the Colorado Rules of County Court Civil Procedure, with the below exceptions as it pertains to an ERPO.

The new ERPO legislation places service obligations on the law enforcement agency in the jurisdiction where the respondent resides. Civil process of ERPOs by Sheriff’s deputies will only occur in unincorporated areas. No fees for filing or service will be charged to a petitioner regarding an ERPO. The respondent must be personally served with the Temporary ERPO, if one exists, as well as the petition and notice of hearing issued by the court. If service is not completed within five (5) days, the serving deputy shall notify the petitioner and request any additional information that may assist in locating the respondent.

The Sheriff’s Office deputy serving process of the Temporary ERPO will do so after obtaining as much information as is practical to ensure that process can be served in a safe manner for the sake of the deputy, the respondent and the public. Additionally, the deputy will advise the respondent of his/her obligations under C.R.S. §13-14.5-108, to surrender any firearms and concealed carry permits; but, as indicated in JCSO Policy 730, no deputy will give legal advice regarding civil process. The deputy shall thoroughly document any observations about the

behavior of the respondent in a written report.

In the event that a respondent desires to offer his/her firearms and/or concealed carry permit to the sheriff's office for safe keeping, the deputy will receive said firearms and/or permit, and submit them to the evidence vault in accordance with JCSO Policy 765. An itemized inventory of items received from the respondent must be provided to the respondent, and a copy will also accompany the process service return of service, which must be submitted to the court within 72 hours of serving the ERPO. If no firearms or permit are received from the respondent, this fact will be documented in the return of service to the court.

Through the County Attorney's Office, the Sheriff, or his designee, will appear as an "interested party" at all "continuing" ERPO hearings. At such hearings, the Sheriff or his designee will provide information to the court regarding any Sheriff's Office contact with the respondent and whether, in the Sheriff's or designee's opinion, the respondent presented a danger to self or others during these contacts.

Sheriff's Office deputies will only seek a search warrant for firearms, in accordance with C.R.S. §§ 16-3-301.5 and 303, when; accompanied by an arrest warrant wherein probable cause has been established to believe that the suspect poses a risk to the safety of another person; or when the deputy reasonably believes and has articulated a factual basis that establishes the suspect to be an immediate danger to others or himself, or appears to be gravely disabled, and no other means of resolution are available, in which case the suspect is to be taken into custody for purposes of a 72 hour mental health hold in accordance with the established criteria detailed in C.R.S. § 27-65-105.

Sheriff's Office personnel or resources will not be made available to other requesting law enforcement agencies unless the above requirements are met.

When a search warrant is executed, the deputy shall complete the Search Warrant Return and Inventory form, itemizing any firearms and/or concealed carry permit seized, and attach a copy of the form to the return of service, which must be submitted to the court within 72 hours of serving the warrant. A copy of the itemized inventory must also be provided to the suspect.