

Free Legal Help!!

GUIDELINES FOR PERMANENT PROTECTION ORDER HEARINGS

El Paso County, Teller County, Colorado Springs, Monument Colorado, Broadmoor, Black Forest, Wolf Ranch, Woodmoor, Old Colorado City, Fountain, Mountain Shadow, Pine Creek, Banning, Lewis Ranch

GUIDELINES FOR PERMANENT PROTECTION ORDER HEARINGS

- Petitioner = person who obtained the temporary protection order
- Respondent = person who received the temporary protection order paperwork

- Petitioner has the burden of proof to prove to the Court by a preponderance of evidence (more likely than not) that:
 - o .The Respondent has committed acts constituting grounds for issuance of a civil protection order; and
 - o That unless restrained will continue to commit such acts or acts designed to intimidate or retaliate against the protected person.

- A permanent protection order may be granted for the following purposes:
 - o To prevent assaults and threatened bodily harm;
 - o To prevent domestic abuse;
 - o To prevent emotional abuse of the elderly or of an at-risk adult;
 - o To prevent sexual assault or abuse; and
 - o To prevent stalking.

- Each hearing is scheduled for 50 minutes, meaning that each side must present their case within 20 minutes (with the remaining 10 minutes reserved for the Court's ruling).
 - o 20 minutes includes:
 - Witness testimony
 - Playing audio and/or video evidence
 - Cross-examination
 - o Court staff will keep track of time.

- Each side controls the witnesses that are called to testify.
 - o All witnesses must be sworn in before testimony is provided.
 - o Court will enter a sequestration order which means that any witnesses may not remain in the courtroom while other witnesses are testifying, nor is any witness allowed to talk about what occurred in the courtroom during their testimony until the hearing ends.

- Each side controls their own exhibits.

- o Electronic evidence (audio or video) must be downloaded to a disk or flash drive.
- o The side who is entering the electronic evidence must bring a device upon which to play the exhibit. Exhibits cannot be played on the court computer systems.

GUIDELINES FOR ENTERING EXHIBITS INTO EVIDENCE

What is evidence?	Evidence is any information presented in support of a statement or claim.
Examples of evidence	Testimony from a witness, or physical exhibits such as a recording, document, picture, video, or more.
Witness testimony requires personal knowledge	For example: <ul style="list-style-type: none"> o Who the witness is o What the witness knows o How does the witness know the information o How does the information relate to the case
How to talk about an exhibit	Always refer to the number/letter; <i>remember that all hearings are recorded</i>
Always ask permission of the Court to move anywhere in the courtroom	For example: <ul style="list-style-type: none"> o Your Honor, may I approach the witness to show them Exhibit 1? o Your Honor, may I approach Court Staff or the Court with a copy of Exhibit 1?
Always make requests that allow you to do the hearing	For example: <ul style="list-style-type: none"> o Hearing devices o Interpreters o Requests to stand or sit related to physical limitations o Any other accommodation, see http://www.coloradojudicial.gov/lada-fag-O

- Exhibits must be authentic (they are what they appear to be) and relevant (relates to the question that the Court must decide).
- Label your exhibits as follows:
 - o 1, 2, 3, etc. for Petitioners
 - o A, B, C, etc. for Respondents
 - o Be sure to label all 3 copies the same!
- If exhibits have been pre-filed or submitted into your case by you, the Court has not viewed/reviewed them prior to your hearing. You must bring **three (3) labeled copies** to the final hearing: one for the Court, one for the opposing party, and one for yourself. **All three copies must be printed and labeled.**
- o For any exhibit that is not in English, the exhibit must be accompanied by a translated version. Court interpreters will not translate exhibits.

<p>How to enter an exhibit into evidence (exhibit must be relevant and authentic)</p>	<p>For example:</p> <ul style="list-style-type: none"> • Witness recognizes exhibit • Witness has seen the exhibit previously, and exhibit is the same as the last time the witness saw it.
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- To enter an exhibit into evidence, there must be testimony by a witness who explains:
 - o **Who?**
 - Who are the people that the piece of evidence relates to?
 - How do you recognize that the evidence came from another person?
 - o **What?**
 - What is!! (literally) - copy of_;photo; recording; map, etc.
 - o **When?**
 - Date/time of when the exhibit was created or discovered
 - o **Where?**
 - What place did the exhibit come from - for example, came from phone (audio/camera), from Petitioner's house in living room, etc.?
 - o **Why?**
 - It is important because _____
- Once you have provided information about what the exhibit is, you will offer the exhibit into evidence so that the Court can consider it (Petitioner/Respondent would like to admit exhibit 1/A to the Court). What may happen next:

Both sides agree that the exhibit is admitted.	Court will decide whether exhibit is admitted.
<p>Opposing side may disagree ("object") to an exhibit being admitted. The objection must be a legal objection. A "legal objection" includes: relevance, hearsay, lack of foundation, more prejudicial than probative, repetitious, and others.</p>	<p>If the Court agrees with the objection, the objection will be sustained. "Sustained" means that the evidence does <u>not</u> come in.</p>
	<p>If the Court does not agree with the objection, the objection will be overruled. "Overruled" means that the evidence does come in.</p>

Other resources:

- Self-Help Resources | Colorado Judicial Branch - <https://www.coloradojudicial.gov/self-help-resources>
- o Talk to an attorney

County Court El Paso County Combined Courts Court Address: 270 S. Tejon Street, Colorado Springs, CO 80903	
Petitioner v. Respondent	
	Case Number: Division: N
CASE MANAGEMENT ORDER (CMO) AND ADVISEMENT REGARDING ISSUES HEARD AT A PERMANENT CIVIL PROTECTION ORDER HEARING	

. A TEMPORARY PROTECTION ORDER (TPO) WAS ISSUED BY THE COURT

The Court will set this case for a hearing as to whether the TPO should be made permanent. So that the parties are better prepared to proceed to hearing on the scheduled date, they are advised and ordered as follows:

NOTICE TO THE PETITIONER

1. You will receive two copies of the TPO from the court clerk. One for yourself and one is to serve on the Respondent. The TPO is temporary and is only effective after it has been served on the Respondent. You must appear in person at the Permanent Protection Order hearing.
2. Personal Service on the Respondent
 - a. **SERVICE ON RESPONDENT.** Once you receive a TPO, you must complete personal service on the respondent with a copy of the Complaint/Motion, the TPO and the Affidavit/Certificate of Service. This must be done prior to your Permanent Protection Order hearing.
 - b. **WHO CAN SERVE RESPONDENT.** Service can be performed by the sheriff, a private process server, or someone you know who is 18 years or older, who is not a party to the case, and who knows the rules of service.
 - c. **YOU NEED A COMPLETED AFFIDAVIT OF SERVICE.** Be sure to direct the sheriff, private process server, or person serving the documents to return the original and a copy of the Affidavit/Certificate of Service to you. YOU MUST File the Affidavit/Certificate of Service with the Clerk of Court or bring it with you to the next hearing.
 - d. **IF UNABLE TO SERVE RESPONDENT.** If you were not able to serve the Respondent before the permanent hearing, you can ask the Court for additional time to get service. You must be present in person to request the additional time.

NOTICE TO THE RESPONDENT

1. **If you are the respondent, you have two options:**
 - a. You may object to the Protection Order, in which case there will be a hearing; or
 - b. You can agree to the Protection Order without making any admissions.

PERMANENT ORDER HEARING

1. At a permanent protection order hearing, the Court has 3 options:
 - a. The Court can make the TPO permanent with the same terms;
 - b. The Court can make the TPO permanent with different terms;
 - c. The Court can vacate (dismiss) the order entirely.
 - d. A protection order is made permanent when the Petitioner prevails at the hearing, or if the parties agree that the order should be made permanent.
 - e. A protection order is vacated when the Respondent prevails at the hearing, or if the parties agree that the order should be vacated.
2. Each hearing is scheduled for 30 minutes. Each side will have 20 minutes to present his or her respective case, with the remaining 10 minutes reserved for the Court's ruling. *If you believe your case needs additional time, you must file a motion stating your reasons to request this.* This motion can be filed with the Clerk's Office (Room S101).
3. Because he or she filed the case, it is the Petitioner's burden to prove, by a preponderance of the evidence (meaning more likely than not), two things: first, you must prove that the offensive act or acts alleged in your complaint occurred. Next, you must prove that unless restrained, the respondent will continue to commit those acts; or will commit acts that are meant to intimidate or retaliate against you.
4. **Each party is entitled to one continuance for good cause**, not to exceed 14 days, unless the parties agree to a longer continuance. For example, if you were recently served and are retaining counsel or if you're gathering evidence. If the Court grants a continuance, the TPO will remain in effect until the next court date.
5. If a party fails to appear at any scheduled hearing, the opposing party may have the case decided in his or her favor.
6. **SUBPOENAS:** Either party may get a subpoena for a witness from the Clerk's Office (Room S101) to order a witness to appear at the permanent order hearing. Subpoenas must also be served as above.
7. The parties to this case may retain the services of an attorney to advise them and to represent them in court. If any party has further questions regarding the TPO or the upcoming hearing, he or she is encouraged to seek the advice of an attorney. The Court may not provide legal advice.

EVIDENCE AT THE HEARING

Evidence acceptable to the court includes, but is not limited to, the following categories:

1. **The live testimony** of witnesses or parties to the action. *NOTE: Written witness statements or affidavits will NOT be accepted in lieu of live testimony.*
2. **Certified/Official records** for a business or government agency that are routinely kept in the normal course of that businesses or agency's activities. Examples include medical records, police reports, bills for cellular service, reports generated by a security service, etc.
3. Evidence that preserves or records the activities of a party or witness. Examples include photographs, email or text communications, messages left on voice mail, etc. It is the responsibility of the party presenting this evidence to supply the equipment necessary for the Court to hear or view such evidence. The Court cannot supply this equipment.

4. **EXHIBITS.** Parties are required to have 3 copies of any/all exhibits for use during the hearing.
 - a. **AUDIO/VIDEO EXHIBITS.** If either party plans on using any audio/video, the party is required to download any audio/video onto a flash drive which will become part of the official court record, if requested and accepted into evidence. The party is required to supply a personal laptop to play the audio/video during the trial.
 - b. **All other evidence must be printed.** This includes photographs, emails, documents, text messages and screenshots.

The Court may adjust this order to expedite the proceeding.

More information can be found at:

<https://www.coloradojudicial.gov/self-help/getting-protection-order>

So ordered as of this day, December 13, 2024.

BY THE COURT:

Douglas G. Bechtel
4th Judicial District Magistrate

Permanent Protection Order Advisement

This is the Permanent Protection Order Docket. I am Doug Bechtel, one of the magistrates in El Paso County.

When I call your name, please come forward. Petitioners (also known as Plaintiffs) will proceed to the table on my right closest to the jury box, and Respondents (also known as Defendants) to the table on my left. If you obtained the temporary protection order, you are the Petitioner. If you were served paperwork, you are the Respondent.

Each hearing is scheduled for 50 minutes. All proceedings are recorded. That means each side (Petitioner and Respondent) will have a maximum of 20 minutes in which to present or defend their respective cases (with the remaining 10 minutes reserved for the Court's ruling). If you're asking questions or presenting evidence including testimony and audio or video evidence - that is counting against your time.

Because he or she filed the case, it is the Petitioner's burden to prove to me, by a preponderance of the evidence (more likely than not) two things: first, you must prove that the offensive act or acts alleged in the complaint occurred. Next, you must prove to me that unless restrained, the respondent will continue to commit those acts; or will commit acts that are meant to intimidate or retaliate against you. This is different than the standard that was necessary for you to obtain the temporary protection order.

In addition, the procedure is different as well. When you received your temporary order, more than likely the judicial officer simply read your complaint, perhaps asked some questions, and then granted your request based on your sworn complaint. The protection order hearing is similar to a trial. You must present evidence in the form of witness testimony: either your testimony, the respondent, or that of a third party. The exception being, you cannot call a Respondent to the witness stand where the respondent has a criminal case pending that arises from the same set facts and circumstances as he or she has a 5th amendment right to

remain silent. The Respondent has the right to cross-examine or question those witnesses. The Respondent can also call witnesses, including himself or herself. The Petitioner has the right to cross-examine or question those witnesses. If you have witnesses, they must be present at the hearing to testify unless you have prior authorization from the Court for the witness to testify by video.

With regard to evidence: you must have that with you at the hearing. The opposing party must be afforded the opportunity to review your evidence prior to the hearing. If you have those things on your phone, you **MUST** get them off your phone and bring them to the Court in a format I can keep, like a CD, jump drive or external hard drive. You must bring 3 copies of the media. One copy is for you, one for the other party, and one for the Court. Additionally, you must bring a device to play your audio or video on in the courtroom.

Everything else must be paper. This includes emails, texts, photos and screenshots. You must bring 3 complete duplicate paper copies of anything you want the court to consider. Again, one copy is for you, one for the other party, and one for me (Court). You will label each document/item with a number or letter.

All parties, whether represented by an attorney or not, need to follow the Colorado Rules of Evidence. For example, this means a proper foundation as required by the rules must be presented to get a piece of evidence admitted. The Court will provide any party not represented by an attorney with a copy of the Court's evidence guidelines. Additionally, all parties must abide by the rules for hearsay.

The hearing is the only time the Court can hear about any of the allegations. That means that the Court cannot discuss any of the claims or defenses except during the hearing.

If you are set for a protection order hearing today, each party is entitled to one continuance for good cause, not to exceed 14 days. For example, if you were recently served and are retaining counsel or if you're gathering evidence. If I grant a continuance the Temporary Protection Order will remain in effect until the next court date.

If you are the respondent, you have two options: first you may contest the Protection Order, in which case we will have a hearing as I previously described. The second option is that you can agree to the protection order without making any admissions. If I grant the Protection Order, either because of your agreement, or after a hearing, you will be prohibited from being within 100 yards of the protected party. There may be other conditions as well. If the parties were in a domestic relationship, I will determine whether there was "the threat of use, use of, or attempted use physical force" and, if so, you will be prohibited from ever again owning, possessing, or using a firearm.

If there is a shared residence and I've granted the protection order, or extended the temporary protection order, you may request a "keep the peace." This will allow you to return to the shared residence one time, accompanied by law enforcement, to retrieve any uncontested personal items. You must request this today.

There is one other option to consider. The statute allows for continuance of the temporary protection order for up to a year. This requires agreement of both parties and approval from the Court.

There are special reasons for considering this:

First, there is no need for an evidentiary hearing (in other words, neither side has to prove or defend anything). This also means the Court does not make any findings on whether the offensive acts actually occurred.

Second, the protections would remain in place for the year. This allows time for a cooling off period.

Third, a permanent protection order is entered into several databases. For example, a permanent protection order would appear in background checks, such as those conducted for employment and apartment applications. As another example, the FAA has detained permanent protection respondents at the airport to confirm he or she is not travelling with the protected party.

Fourth, this case would be resolved today. Protection Orders cases have the highest priority in the Courthouse. The cases are then prioritized by date, with the older cases taking precedence. The court can only hear 1 protection order hearing in each docket. Other cases will need to be continued. Unfortunately, it is not

uncommon for hearings to be continued multiple times. Extending the temporary protection order would resolve the case today.

Finally, if a permanent protection order is issued, the respondent must wait at least 2 years before he or she is eligible to request modification or dismissal.

If the parties agree to this, the Court will set a review hearing. If there were no violations, the protection order would be dismissed.

Everyone is reminded that the Courtroom is a public place to settle disputes in a civilized manner. The Court understands this may be an emotionally charged matter. However, the Court will not allow any person to make statements or comments about any other party. All statements should be directed to the Court, not to each other. Each side is entitled to his or her day in Court. Every litigant will be treated with honor and dignity.

When the Court calls your case, the Court will ask if you have any questions about this advisement.