



TALLAHASSEE POLICE DEPARTMENT GENERAL ORDERS

 Proudly Policing Since 1841	SUBJECT <p style="text-align: center;">Risk Protection Orders</p>	 Nationally Accredited 1986	
	CHIEF OF POLICE <p style="text-align: center;"><i>Signature on File</i></p>		
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AUTHORITY/RELATED REFERENCES

FS Chapter 393, Developmental Disabilities
 FS 394.455, Definitions (Mental Health)
 FS 790.401, Risk Protection Orders
 General Order 8, Mentally Ill Persons
 General Order 16, Digital Audio/Video Recording System
 General Order 30, Criminal Intelligence Protocols
 General Order 42, Impounding and Controlling of Property and Evidence
 General Order 72, Search and Seizure

ACCREDITATION REFERENCES

CALEA Chapters 1, 41, 70, 82
 CFA Chapter 24

KEY WORD INDEX

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POLICY

All members who, in the course of their official duties, contact a person believed to be mentally ill or experiencing a mental health crisis are responsible for respecting the person's dignity. Additionally, officers are responsible for adhering to established Department protocols and applicable statutes regarding the assessment and stabilization of the person.

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DEFINITIONS

Firearm Possession Disability: As defined in Florida Statutes, the prohibition of a person from possessing a firearm because they have been 1) convicted of specific crimes (e.g., all felonies and certain misdemeanors), 2) adjudicated mentally defective, or 3) committed to a mental institution.

Mental Health Crisis: State of mind in which a person is unable to cope with and adjust to the recurrent stresses of everyday living in a functional, safe way. This term does not include a developmental disability as defined in FS Chapter 393, intoxication, or conditions manifested only by antisocial behavior or substance abuse.

Mental Illness (Mentally Ill): Any ongoing health condition characterized by impairment of a person's normal cognitive, emotional, or behavioral functioning. This term does not include a developmental disability as defined in FS Chapter 393, intoxication, or conditions manifested only by antisocial behavior or substance abuse.

Risk Protection Order (RPO): A court order against a person (respondent) who poses a *significant* danger of causing personal injury to themselves or others by possessing firearms or ammunition.

An RPO allows designated law enforcement officers to collect or seize the respondent's firearms, ammunition, and any license to carry a concealed weapon/firearm, and prohibits the respondent from purchasing, possessing, or receiving a firearm or any ammunition.

There are temporary and long-term RPOs, the latter of which prohibits the respondent from possessing firearms and ammunition for a period of up to 12 months.

PROCEDURES

I. GENERAL GUIDELINES

- A. The purpose of FS 790.401 (Risk Protection Orders) is to reduce deaths and injuries as a result of certain persons' possession or use of firearms and ammunition by providing a judicial procedure for law enforcement officers to obtain a court order temporarily restricting a person's access to firearms, ammunition and license to carry a concealed weapon or firearm.

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1. RPOs concern the seizing and voluntary surrender of firearms, ammunition, and any license to carry a concealed weapon or firearm issued under FS 790.06.
 2. RPOs do not authorize law enforcement officers to take a person into protective custody.
- B. The RPO process is intended to apply only to situations in which a person poses a *significant* danger of causing personal injury to themselves or others by possessing a firearm or ammunition.
- C. Officers/Detectives are not authorized to serve RPOs, nor are they authorized to collect firearms, ammunition, or any license to carry a concealed weapon/firearm because of an RPO service.
- D. Officers/Detectives shall refer to Section IV regarding firearm collections associated with an involuntary assessment.
- E. The Leon County Sheriff's Office (LCSO) is the designated law enforcement agency in Leon County authorized to serve RPOs and collect firearms, ammunition, and any license to carry a concealed weapon/firearm pursuant to an RPO service.
- F. On-scene officer(s) who discover a person is the respondent in an unserved RPO shall request the assistance of the LCSO to render service of the RPO. Officers do not have the authority to detain a person pursuant to the service of an RPO.
- G. The Legal Advisor is responsible for representing the Department's interest in obtaining RPOs and coordinating with the LCSO and the courts as needed in this regard (see section II below).
- H. The Criminal Intelligence Unit RPO designee is responsible for follow-up of all RPO investigations and will work with the Legal Advisor to ensure the requirements of statute and policy are completed.

II. OBTAINING A RISK PROTECTION ORDER

- A. The Department, facilitated by the Legal Advisor, may petition the court for an RPO.
- B. A petition for an RPO must allege that the person (respondent) poses a *significant* danger of causing personal injury to themselves or others by

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possessing a firearm or ammunition, and a petition shall include the following:

1. Specific statements, actions, or facts that give rise to a reasonable fear of *significant* dangerous acts by the respondent,
 2. Identify the quantities, types, and locations of all firearms and ammunition in possession, custody and control of the respondent,
 3. A statement whether there is a known existing protection order (e.g., domestic violence injunction) for the respondent, and
 4. An attestation, as required by FS 790.401(2)(F), concerning the Department providing notice to the family or household member of the respondent and to any known third party who may be at risk of violence. The attestation, completed by the Criminal Intelligence Unit (CIU), must either:
 - a. Address the fact that the required notices were made, or
 - b. Explain the steps that will be taken to provide such notice(s).
- C. Whenever the Department petitions the court for an RPO, notice shall be made to the persons identified in subsection B 4 above, and the notice must include:
1. A statement that the Department intends to petition the court for an RPO or has already done so, and
 2. Referrals to appropriate resources, including mental health, domestic violence, and counseling resources.
- D. The Legal Advisor is available 24/7 by phone to address questions about obtaining an RPO. If the legal advisor is unavailable, the Criminal Intelligence Unit RPO designee may be contacted.
- E. Due to statutory requirements, officers who believe an RPO is appropriate for a person shall complete a [Risk Protection Order Referral \(PD358\)](#), [Risk Protection Order Affidavit \(PD359\)](#) and email the forms to the 'TPD RPO Requests' email group (tpdrporequest@talgov.com) before the end of their shift. The forms can be found on Sharepoint.

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- F. Upon notice from the court of an approved RPO petition, the CIU is responsible for ensuring the RPO was entered into FCIC/NCIC. CIU will complete a supplemental report.

III. SEARCH WARRANTS TO SEIZE FIREARMS AND AMMUNITION

- A. When a law enforcement officer has probable cause to believe a person who was served with an RPO failed to surrender all firearms and/or ammunition they own, FS 790.401(7)(d) authorizes the officer to petition the court for a search warrant to search for and seize the firearms and/or ammunition.
- B. If a situation as described in subsection A above occurs in a Department-initiated RPO situation, the officer (facilitated by the Legal Advisor) shall petition the court for a search warrant and complete a supplemental report if the original has already been accepted.
- C. Officers are responsible for adhering to the protocols of [General Order 72](#) in obtaining and serving a search warrant.
- D. When firearms and/or ammunition have been seized during a search warrant, the case agent or supervisor on scene shall request that LCSO respond to the location to take custody of the firearm(s) and/or ammunition.
- E. If LCSO is unable to respond to the search warrant location to take custody of the firearm(s) and/or ammunition a TPD member shall:
1. Impound the firearms at the Department,
 2. Ensure "RPO" is checked in the property code section when impounding, and
 3. Send an email to tpdrporequest@talgov.com.

IV. RETURN OF FIREARMS AND/OR AMMUNITION

- A. Firearms, ammunition, and any license to carry a concealed weapon or firearms held as evidence for legal proceedings (i.e., criminal cases), regardless of RPO status, shall not be transferable to persons for safekeeping nor released when an RPO is vacated or ends without extension.

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- B. This section is applicable for the return of firearms and ammunition seized, surrendered, and impounded at the Department by members as the result of a search warrant service as outlined in section III above if LCSO is unable to respond to the scene.
- C. In situations where firearms or ammunition are subject to seizure or have been seized by an officer/detective, but have not yet been impounded at the Department or turned over to LCSO, and a person *other than the respondent* claims title to any of the items, the following protocols are applicable:
1. Officers are responsible for making a reasonable determination if the person is the actual owner of the firearm(s) and/or ammunition.
 2. Determination of ownership may be made by viewing a bill of sale or other documents, or statements by the respondent or other persons with knowledge of the ownership (e.g., family, friends, neighbors).
 3. If the officer/detective determines the person is the lawful owner of the firearm(s)/ammunition, the protocols listed below are applicable.
 - a. The firearm or ammunition shall be returned only if the person:
 - 1) Is not prohibited from possessing a firearm (e.g., firearm possession disability, RPO respondent), and
 - 2) Agrees to store the firearm(s) or ammunition in such a manner the respondent does not have access to or control of the firearm or ammunition. This **shall** be captured on BWC and/or documented on a sworn written statement form.
 - b. Officers are responsible for documenting any transfer of custody of the firearm(s) and/or ammunition via a [Property and Evidence Receipt \(PD 139\)](#).
 4. When an officer is unable to determine if the person making the claim is the actual owner of the firearm(s) and/or ammunition, the items shall be impounded into the Property and Evidence Unit.
- D. In situations where the firearm(s) or ammunition have not been turned over to LCSO, and are impounded at the Department and a person *other than the respondent* claims title to any of the items, Property and Evidence Unit members are responsible for the following:

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1. Request the RPO designee, or another sworn member to assist with:
 - a. Making a reasonable determination if the person is the actual owner of the firearm(s) and/or ammunition.
 - b. Determination of ownership may be made by viewing a bill of sale or similar documents or a court order.
2. If it is determined the person is the lawful owner of the firearm(s) and/or ammunition, the protocols listed below are applicable.
 - a. The firearm or ammunition shall be returned only if the person:
 - 1) Is not prohibited from possessing a firearm (e.g., firearm possession disability, RPO respondent), and
 - 2) Agrees to store the firearm or ammunition in such a manner the respondent does not have access to or control of the firearm or ammunition. A Property and Evidence member shall contact a Sworn Officer and have it captured on BWC and/or documented on a sworn written statement form.
 - b. Any transfer of custody of the firearm(s) and/or ammunition shall adhere to the protocols of [General Order 42 \(Impounding and Controlling of Property and Evidence\)](#).

If an RPO is vacated or ends without extension and the property is not impounded at the Department, any request to retrieve a firearm(s) and/or ammunition **shall** be referred to LCSO.

- E. Any questions or concerns about the release of firearms and/or ammunition should be directed to the Legal Advisor or to the TPD RPO Request email group (tpdrporequest@talgov.com). Also, refer to the RPO Checklist on the next page.

V. Training Requirements

- A. Each sworn member and P&E Unit member will receive initial training on FS 790.401 (Risk Protection Orders).
 1. The training will be facilitated by the Legal Advisor and/or Crime Intelligence Unit RPO designee.

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2. The training for sworn members will be documented and include at minimum, the following information:
 - a. Statutory purpose and authority limitations on RPO service,
 - b. Eligibility criteria and petitioning the court for an RPO,
 - c. Obtaining a search warrant when it is believed an RPO respondent failed to surrender all firearms and ammunition they own, and
 - d. Transferring and impounding of firearms and/or ammunition.

3. The training for P&E Unit members will be documented and include at minimum the following information:
 - a. Statutory purpose and authority limitations on RPO service,
 - b. Receiving, returning, transferring, and disposal of firearms and/or ammunition.

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Tallahassee Police Department
RISK PROTECTION ORDER CHECKLIST

Name:		Case Number:	
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	DATE
RPO Referral Form & Affidavit Submitted to CIU/Legal Advisor:	
Temporary RPO Granted:	
Temporary RPO Served by LCSO:	
RPO Granted:	
RPO Served:	
Firearm(s)/Ammo seized by LCSO:	
RPO Expiration:	
RPO Notice to Family Completed (if any Firearms/Ammo at TPD P&E):	
Firearm(s)/Ammo returned (if any at TPD P&E):	
NCIC/FCIC Background Check:	