



# TALLAHASSEE POLICE DEPARTMENT GENERAL ORDERS

 Proudly Policing Since 1841	<b>SUBJECT</b>  Mentally Ill Persons	 Nationally Accredited 1986	
	<b>CHIEF OF POLICE</b>  <i>Signature on file</i>		
<b>NUMBER</b> 8	<b>ORIGINAL ISSUE</b> 07/15/1985	<b>CURRENT REVISION</b> 11/21/2019	<b>TOTAL PAGES</b> 22

### AUTHORITY/RELATED REFERENCES

FS Chapter 393, Developmental Disabilities  
 FS 394.455, Definitions (Mental Health)  
 FS 394.462, Transportation (Mental Health)  
 FS 394.4625, Voluntary Admissions  
 FS 394.463(1), Involuntary Examination Criteria  
 FS 784.07, Assault or Battery of ... Emergency Medical Care Providers  
 FS 790.401, Risk Protection Orders  
 General Order 6, Arrests and Alternatives to Arrest  
 General Order 16, Digital Audio/Video Recording System  
 General Order 42, Impounding and Controlling of Property and Evidence  
 General Order 59, Transporting and Booking Procedures  
 General Order 71, Juvenile Civil Citation Program  
 Leon County Behavioral Health Transportation Plan

### ACCREDITATION REFERENCES

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

### KEY WORD INDEX

<b>Assault/Battery of Emergency Medical Care Provider</b> <b>Assessment of a Mentally Ill Person</b> <b>Documentation Requirements</b> <b>Legal Guidelines</b> <b>Medical Aid Protocols – Protective Custody</b> <b>Recognition Guidelines</b> <div style="background-color: black; height: 15px; width: 100%; margin-top: 5px;"></div> <b>Return of Firearms and Ammunition (Baker Act)</b> <b>Risk Protection Orders</b>	Procedure XII Procedure II Procedure XI Procedure VII Procedure VIII Procedure I <div style="background-color: black; height: 15px; width: 100%; margin-top: 5px;"></div> Procedure V Appendix One
---	---

## TALLAHASSEE POLICE DEPARTMENT

---

<b>Seizure/Surrender of Firearms/Ammunition (Baker Act)</b>	Procedure IV
<b>Training Requirements</b>	Procedure XIII
<b>Transportation Protocols – Protective Custody</b>	Procedure IX
<b>Voluntary Admissions</b>	Procedure III
<b>When a Crime Has Been Committed</b>	Procedure VI

### 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.

### DEFINITIONS

**Authorized Professional:** As defined in the Florida Mental Health Act, a physician, clinical psychologist, psychiatric nurse, mental health counselor, marriage and family therapist, or clinical social worker.

**Baker Act:** The commonly used term referring to the statutory provisions of FS Chapter 394, Part I, the Florida Mental Health Act.

**Central Receiving Facility:** The receiving facility located at the Apalachee Center for Human Services (ACHS).

**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.

**Involuntary Examination:** A statutorily approved mental health examination performed against the wishes of the person being examined.

**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

## TALLAHASSEE POLICE DEPARTMENT

---

substance abuse.

**Protective Custody:** The act of a law enforcement officer placing a person who has met certain criteria into custody in order to deliver the person to an authorized receiving facility for an involuntary examination.

**Receiving Facility:** A public or private facility designated by the State of Florida to receive and hold or refer, as appropriate, involuntary patients under emergency conditions for mental health or substance abuse evaluation, and to provide treatment or transportation to the appropriate service provider.

The receiving facilities for the Department's jurisdiction are the Central Receiving Facility, Tallahassee Memorial Hospital, and Capital Regional Medical Center. Per FS 394.455, a county jail is not a receiving facility.

**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.

**Second Party Verification:** A post-input query of a teletype entry into FCIC/NCIC to ensure the entered information is complete, accurate, and valid, as mandated by the Florida Department of Law Enforcement.

**Shall:** Indicates the described action is mandatory.

**Should:** Indicates the described action is not mandatory, but preferred.

**Voluntary Admission:** The intentional act of a person willingly submitting to a mental health examination.

**PROCEDURES**

**I. RECOGNITION GUIDELINES – ALL MEMBERS**

- A. Although the behavior displayed by a person experiencing a mental health crisis will vary based upon their particular mental illness, the following signs and symptoms may indicate the person is in need of prompt medical or mental health assistance:
1. Confused thinking,
  2. Feelings of extreme highs and lows,
  3. Excessive fears, worries and anxieties,
  4. Strong feelings of anger,
  5. Strange thoughts (delusions),
  6. Seeing or hearing things that are not there (hallucinations), and/or
  7. Suicidal thoughts.
- B. In the event a civilian member is confronted by someone who appears to need assistance because of a mental illness, or is experiencing a mental health crisis, the member should promptly request assistance from an on-duty police officer or contact the Watch Commander.

**II. ASSESSMENT OF A MENTALLY ILL PERSON**

General Assessment Information –

- A. When an officer encounters a person they have reason to believe is mentally ill and/or is experiencing a mental health crisis, the officer is responsible for:
1. Determining if the person meets the criteria for an involuntary examination as outlined in subsection G below,
  2. Being cognizant of the fact the mere refusal to receive mental health services does not constitute evidence of lack of judgment with respect to the person's need for such services, and

## TALLAHASSEE POLICE DEPARTMENT

---

3. Being cognizant of the fact the definitions of *mental illness* and *mental health crisis* do not include developmental disabilities as defined in FS Chapter 393 (e.g., autism), intoxication, or conditions manifested only by antisocial behavior or substance abuse.
- B. Officers who have questions or concerns regarding an interaction with a person suspected of being mentally ill and/or experiencing a mental health crisis may request the assistance of an on-duty member of the Department's Crisis Intervention Team.
- C. If an officer has questions or concerns regarding the decision to take a person into protective custody, the officer shall:
1. Resolve the situation in favor of protection of life and property of the person, other citizens, and officers,
  2. If needed, discuss the situation with their supervisor, and
  3. If needed, discuss the situation with intake staff at the nearest receiving facility.
- D. Officers shall not deny mental health services or make admission assessments and determinations based upon a person's age, race, ethnic background, gender or gender identification, sexual orientation, religion, or economic status.
- E. If during a contact an officer reasonably believes the person poses a *significant* danger of causing personal injury to themselves or others by possessing firearms or ammunition, FS 790.401 (Risk Protection Orders) may be applicable. See Appendix One for Risk Protection Order (RPO) protocols.
- F. The existence or absence of an RPO does not affect an officer's authority and responsibilities under the Baker Act.

### Involuntary Examination Criteria –

- G. Per FS 394.463(1), an officer may take a person into protective custody when the officer reasonably believes the person:
1. Has a mental illness and/or is experiencing a mental health crisis and refuses the offer of, or is unable to determine the need for, mental health treatment, and

## TALLAHASSEE POLICE DEPARTMENT

---

2. Without prompt care or treatment, the person is likely to:
  - a. Cause serious bodily harm to themselves or to another person in the near future, or
  - b. Suffer from neglect or refuse to provide self-care, which poses a real and present threat of substantial harm to their well-being (and it is apparent to the officer there are no willing family members or friends, or other services, to assist the person to avoid such harm).
  
- H. Officers shall consider a variety of factors in determining the existence of the criteria set forth in subsection G above to include, but not necessarily limited to, the fact the person:
  1. Has attempted (or is in the process of committing) suicide,
  2. Is in the process of inflicting self-harm by starvation, torture, or living in conditions which create an imminent danger to the health, safety or welfare of the person,
  3. Is under extreme stress,
  4. Suffers from hallucinations, and/or
  5. Is hysterical.
  
- I. Knowledge of the factors listed in subsection H above may come from:
  1. An officer's observations, and/or
  2. A credible witness.
  
- J. In situations where knowledge of the factors listed in subsection H above are from a credible witness, the officer shall (if possible) obtain a sworn written statement from the witness describing their knowledge of the factors.

### Juvenile Protocols –

- K. With the sole exception cited in subsection III C below (voluntary admissions), this policy is equally applicable for officer contacts with juveniles who are suspected of being mentally ill and/or experiencing a mental health crisis.

## TALLAHASSEE POLICE DEPARTMENT

---

- L. During protective custody situations the officer shall make every reasonable effort to contact the juvenile's parent(s), guardian(s), or nearest relative and advise them of the situation.

### When Involuntary Examination Criteria Are Not Met –

- M. If after an assessment the officer reasonably believes the person does not meet the criteria for an involuntary examination, and the person has not committed a crime, the officer may take one of the following actions:
  - 1. Cease the contact without further action,
  - 2. Assist the person in arriving at their intended destination by providing transportation or arranging for other transportation,
  - 3. Assist in locating an adult who could provide assistance and supervision for the person, or
  - 4. Assist the person with a voluntary admission to a receiving facility.

### **III. VOLUNTARY ADMISSIONS**

- A. The duty of officers in cases where a mentally ill person is requesting a voluntary admission is advisory only.
- B. The officer may facilitate the transportation of a mentally ill person to the Central Receiving Facility (CRF), Tallahassee Memorial Hospital (TMH), or Capital Regional Medical Center (CRMC) by (in descending order of preference):
  - 1. Assisting the person's family members or friends in getting the person into a private vehicle,
  - 2. Summoning an ambulance and assisting ambulance personnel in getting the person into the ambulance, or
  - 3. Providing the person transport in a police vehicle (also see subsections VII A and B below).
- C. Officers should be aware juveniles cannot voluntarily admit themselves to a receiving facility; instead, FS 394.4625 (Voluntary Admissions) requires the juvenile's parent or guardian to make application on their

## TALLAHASSEE POLICE DEPARTMENT

---

behalf, followed by a hearing to verify the voluntariness of the juvenile's consent.

#### IV. SEIZURE/SURRENDER OF FIREARMS/AMMUNITION (BAKER ACT)

A. This section is not related to the service of an RPO.

##### Officer Responsibilities –

B. Per FS 394.463 (Involuntary Examination), an officer taking a person into protective custody is authorized to seize and hold any firearm and ammunition the person *is holding or has on their person* at the time of taking them into protective custody only if the person:

1. Poses a potential danger to themselves or others, and
2. Has made a credible threat of violence *against another person*.

C. Except as outlined in subsection B above, officers are not authorized to seize firearms or ammunition related to the protective custody incident which may be in plain view of the officers.

D. The limitations of FS 394.463 do not affect an officer's authority to seize firearms or ammunition for other lawful purposes.

E. Per FS 394.463 (2)(d), when taking a person into protective custody *at the person's residence*, officers may seek the voluntary surrender of firearms and ammunition kept in the residence which have not already been seized as authorized by subsection B above.

F. If an officer reasonably believes the person taken into protective custody has firearms or ammunition which were not seized or voluntarily surrendered as described in subsections B and E above – *and the criteria for an RPO are met* – the officer (facilitated by the Legal Advisor) shall petition the court for an RPO against the person. See Appendix One for RPO criteria.

G. Officers are responsible for ensuring seized or voluntarily surrendered firearms and ammunition are either:

1. Impounded into Department custody as directed in General Order 42 (Impounding and Controlling of Property and Evidence), or



## TALLAHASSEE POLICE DEPARTMENT

---

2. Transferred to a family member of the person in protective custody, as long as:
  - a. The person in protective custody elected or approved the family member receiving the firearm(s)/ammunition,
  - b. The family member is not prohibited from possessing a firearm (e.g., firearm possession disability, RPO respondent), and
  - c. The officer reasonably believes providing the firearm(s) and/or ammunition to a family member is the best course of action.
- H. Regardless of which action is taken in subsection G above, officers are responsible for ensuring:
  1. A Property & Evidence Receipt (PD 139) is completed for any seized or voluntarily surrendered firearm and ammunition,
  2. Appropriate signatures are obtained on the PD 139 when the firearms/ammunition are transferred to a family member, and
  3. A copy of the PD 139 is provided to the person in protective custody.

### **V. RETURN OF FIREARMS AND AMMUNITION (BAKER ACT)**

- A. This section is not related to the service of an RPO.
- B. Property and Evidence (P&E) Unit members are responsible for adhering to General Order 42 and applicable unit policies when returning seized or voluntarily surrendered firearms and ammunition related to an involuntary examination situation (i.e., Baker Act).
- C. Per FS 394.463, firearms and ammunition seized or voluntarily surrendered must be made available for return to the person taken into protective custody no later than 24 hours after the person can document:
  1. They are no longer subject to involuntary examination, and
  2. Have been released or discharged from any inpatient or involuntary outpatient treatment.

## TALLAHASSEE POLICE DEPARTMENT

---

- D. The mandate of subsection C above is not applicable, per FS 394.463, if the person is:
  - 1. The respondent in an RPO, or
  - 2. Subject to a firearm possession disability (see definition).
- E. FS 394.463 mandates the process for the actual return of firearms or ammunition seized or voluntarily surrendered must not take longer than seven (7) days.
- F. Any questions or concerns about the release of firearms or ammunition should be directed to the Legal Advisor.

### VI. WHEN A CRIME HAS BEEN COMMITTED

- A. When an officer has probable cause to believe a mentally ill person (or a person experiencing a mental health crisis) has committed a crime, the officer's decision on whether or not to make an arrest shall be based upon the considerations listed below:
  - 1. The totality of the circumstances surrounding the crime,
  - 2. The guidelines in General Order 6 (Arrests and Alternatives to Arrest),
  - 3. The person's immediate need for medical treatment, and
  - 4. The officer's ability to later seek an arrest warrant.
- B. In situations where an officer arrests a person who meets the involuntary examination criteria, the following protocols are applicable:
  - 1. Felonies

The officer shall transport the person to the appropriate detention facility (i.e., Leon County Detention Facility or the Juvenile Assessment Center) to be processed in the same manner as any other criminal suspect.
  - 2. Misdemeanors or City Ordinance Violations
    - a. If the criminal charge requires the arrested person to attend a mandatory first appearance (e.g., domestic battery) or be

## **TALLAHASSEE POLICE DEPARTMENT**

---

detained for a specific time period (e.g., driving under the influence), the officer shall transport the person to the appropriate detention facility.

- b. If the person qualifies for an alternative to arrest as outlined in General Order 6 or General Order 71 (Juvenile Civil Citation Program), the officer shall:
  - 1) Follow those protocols in issuing either a Notice to Appear, a Pre-arrest Diversion Program form, or a Juvenile Civil Citation, and
  - 2) Transport the person to the CRF.
- c. If the person does not qualify for an alternative to arrest, the officer:
  - 1) Shall transport the person to the CRF, and
  - 2) May, if appropriate and warranted, seek an arrest warrant for the person.

C. The arrest of a person who meets the involuntary examination criteria does not negate an officer's responsibility to petition the court for an RPO if the person meets the RPO criteria (see Appendix One).

### **VII. LEGAL GUIDELINES**

#### **A. Handcuffing Considerations**

- 1. Officers taking a person into protective custody shall properly handcuff the person to ensure the safety and well-being of the person, officers, and others.
- 2. Officers transporting a person for voluntary admission should not handcuff the person unless specific, articulable circumstances justify such restraints to ensure the safety and well-being of the person, officers, and others.

#### **B. Search Considerations**

- 1. Regardless of the mode of transportation, and in protective custody and voluntary admission situations, officers are responsible for

## TALLAHASSEE POLICE DEPARTMENT

---

conducting a search of the person and their personal property to ensure:

- a. The safety and well-being of the person, officers, and/or medical personnel during transport to a receiving facility,
  - b. The safety and well-being of the person and facility personnel once the person is brought into a receiving facility, and
  - c. No weapons or contraband are brought into a police vehicle, ambulance, and/or receiving facility.
2. If an officer locates contraband or evidentiary items leading to the development of probable cause for the arrest of the person, the criteria of section VI above are applicable in making an arrest decision.
  3. Officers are responsible for adhering to the impoundment protocols in General Order 42 for any property or evidence seized from the person.
  4. If the person in a voluntary admission situation refuses to be searched, the officer should refrain from providing the transport.

### C. Response to Resistance Considerations

If a person physically resists officers' efforts to take them into protective custody, the officers shall only use objectively reasonable force responses to protect themselves and the person in order to take the person into protective custody.

### D. Criminal Record Considerations

1. Solely taking a person into protective custody under the Baker Act or transporting them for a voluntary admission is not considered an arrest.
2. The Department shall make no record to indicate the person was arrested or charged with a crime when the person was only taken into protective custody or transported for a voluntary admission.

## TALLAHASSEE POLICE DEPARTMENT

---

### VIII. MEDICAL AID PROTOCOLS – PROTECTIVE CUSTODY

- A. When an officer takes a person into protective custody and the officer reasonably believes the person's medical condition (illness or injury) requires prompt medical attention, the officer shall:
  - 1. Ensure Leon County Emergency Medical Services (EMS) responds to the scene to address the medical situation, or
  - 2. Promptly transport the person to either TMH or CRMC.
- B. Refer to subsections XI C – F below for transportation protocols when medical attention is needed.

### IX. TRANSPORTATION PROTOCOLS – PROTECTIVE CUSTODY

#### When Medical Attention Is Not Required –

- A. When a person is taken into protective custody, the officer shall:
  - 1. Ensure the person is transported to the CRF for a mental health examination, and
  - 2. Direct the CDA to advise the CRF of the pending arrival of the person for a mental health examination.
- B. The officer is not required to stay at the CRF until the mental health examination is completed, and the officer's duty is concluded upon:
  - 1. The proper delivery of the person to the CRF, and
  - 2. The completion of required reports.

#### When Medical Attention Is Required –

- C. The officer shall, based upon the person's demeanor and any apparent medical conditions, determine the appropriate mode of transportation as either a police vehicle or ambulance.
- D. If the transport is by ambulance, the officer(s) shall assist EMS personnel as needed in securing and loading the person into the ambulance.

## TALLAHASSEE POLICE DEPARTMENT

---

- E. If the transport is by ambulance, and the person is handcuffed (as mandated by subsection VII A 1 above) or otherwise secured, an officer shall accompany the person in the ambulance.
1. Officers shall not provide handcuffs, handcuff keys, flex-cuffs, or leg restraints to EMS personnel in lieu of accompanying a secured/handcuffed person being transported in an ambulance.
  2. An officer following an ambulance in a police vehicle does not constitute accompanying the person in the ambulance.
  3. The officer is responsible for ensuring the person is properly restrained until transfer to hospital staff has been safely completed, but must be cognizant of the need for EMS personnel to provide medical interventions (e.g., airway management, medicine administration, IV access) to the person and shall:
    - a. As needed, reposition the handcuffs, temporarily un-handcuff the person, or use alternative restraints (e.g., hobble restraints, flex-cuffs, or EMS medical restraints) to facilitate the needed medical intervention,
    - b. Reposition or re-handcuff the person when appropriate, and
    - c. Not take any action which would knowingly endanger the safety of the person, EMS personnel, or the officer.
- F. Unless necessary due to safety concerns, pending criminal charges, or an on-going investigation, officers are not required to stay with the person once properly delivered to hospital staff.

### When LCSO Is Required to Transport –

- G. Per FS 394.462 and the Leon County Behavioral Health Transportation Plan, the Leon County Sheriff's Office is the designated law enforcement agency in Leon County to transport persons:
1. Taken into protective custody as a result of a Baker Act initiated by an authorized professional (see definition) or an ex parte order, or
  2. Requiring transportation from one receiving facility to another.

TALLAHASSEE POLICE DEPARTMENT

---

- X. [REDACTED]

XI. DOCUMENTATION REQUIREMENTS

- A. Officers shall comply with reasonable requests by the CRF, TMH or CRMC in completing administrative reports concerning the person delivered to their facility by the officer.
- B. Officers are required to complete the Florida Department of Children and Families *Report of Law Enforcement Officer Initiating Involuntary Examination* form and submit it to the receiving facility at the time of delivery of the person for an involuntary examination.
  - 1. The form is available on TPD-Net Forms File (listed as *Baker Act Form*).
  - 2. A copy of any sworn written statement from a witness describing their knowledge of the factors establishing the criteria for the involuntary examination shall accompany the Baker Act form.
- C. An officer who encounters a person reported as or suspected of being mentally ill and/or suffering a mental health crisis shall document the situation in a Department offense report in the following situations:
  - 1. An assessment of the person is conducted as required by FS and this written directive – whether or not the person meets the involuntary admission criteria, and
  - 2. In voluntary admission situations.
- D. The offense report shall include, at a minimum:

## TALLAHASSEE POLICE DEPARTMENT

---

1. The circumstances of the situation (e.g., reporting person, observations, seized/voluntarily surrendered firearms, facility where the person was delivered), and
  2. For an involuntary examination of a juvenile, the name(s) of the adult(s) contacted (or contact attempted) as directed in subsection II L above.
- E. Officers are not required to complete a separate offense report as mandated in subsection C above when the circumstances surrounding the encounter are adequately documented in a Department offense report of another classification (e.g., If a mentally ill person is arrested for burglary, documentation of the mental illness or mental health crisis in the burglary report is sufficient).
- F. Except when prohibited as outlined in General Order 16 (Digital Audio and Video Recording System), officers shall utilize at least one of their assigned AVR devices to record interactions with persons taken into protective custody.
- G. If applicable, officers shall document searches as directed in General Order 72 (Search and Seizure).
- H. If applicable, officers shall complete a response to resistance report as directed in General Order 60 (Response to Resistance).
- I. See Appendix One for documentation protocols for petitioning the court for an RPO.

### **XII. ASSAULT/BATTERY OF EMERGENCY MEDICAL CARE PROVIDER**

- A. Any report of an assault or battery against an emergency medical care provider (as defined by FS 784.07) shall be appropriately documented in a Department offense report.
- B. During incidents where probable cause exists to believe a person has committed an assault or battery upon an emergency medical care provider, responding officers shall arrest the offending person regardless of their mental condition.



## TALLAHASSEE POLICE DEPARTMENT

---

### XIII. TRAINING REQUIREMENTS

- A. Each newly hired member (civilian and sworn) will receive documented entry-level training regarding interactions with persons suspected of being mentally ill and/or experiencing a mental health crisis.
- B. All members will receive documented annual refresher training regarding interactions with persons suspected of being mentally ill and/or experiencing a mental health crisis.
- C. Members who successfully complete specific enhanced training in the recognition of mental illness, crisis intervention, and the assessment of persons experiencing a mental health crisis may be designated as members of the Department's Crisis Intervention Team.
- D. Each officer 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.
  - 2. The training for officers will be documented and include at least 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 least the following information:
    - a. Statutory purpose and authority limitations on RPO service,
    - b. Receiving, returning, transferring, and disposal of firearms and/or ammunition.

History: issued 07/15/1985, revised 11/01/1994, 10/29/2001, 07/30/2007, 06/20/2014, 11/17/2015, 01/31/2017, 06/27/2017 and 04/08/2019.

# TALLAHASSEE POLICE DEPARTMENT

---

## GENERAL ORDER 8 – MENTALLY ILL PERSONS Appendix One

### RISK PROTECTION ORDERS

#### 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 and ammunition.
  - 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 are not authorized to serve RPOs, nor are they authorized to collect firearms, ammunition, or any license to carry a concealed weapon/firearm as a result of an RPO service.
- D. The Leon County Sheriff's Office (LCSO) is the designated law enforcement agency in Leon County authorized to serve RPOs.
- E. On-scene officers who discover a person present is the respondent in an unserved RPO shall request the assistance of the LCSO to render service of the RPO.
- F. 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).

#### II. OBTAINING A RISK PROTECTION ORDER

- A. The Department, facilitated by the Legal Advisor, may petition the court for an RPO.

## TALLAHASSEE POLICE DEPARTMENT

---

- B. A petition for an RPO must allege the person (respondent) poses a *significant* danger of causing personal injury to themselves or others by possessing a firearm or ammunition, and a petition shall include the following:
1. Specific statements, actions, or facts which give rise to a reasonable fear of *significant* dangerous acts by the respondent,
  2. Identity of 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 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 must either:
    - a. Address the fact the required notices were made, or
    - b. Explain the steps which 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 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 to address questions about obtaining an RPO.
- E. An example of a Petition for an RPO showing the type of information the Legal Advisor will need to complete the petition is available on TPD-Net/Forms (*Petition for Risk Protection Order*).
- F. Upon notice from the court of an approved RPO petition, the Department is responsible for ensuring the RPO is entered into FCIC/NCIC.

## TALLAHASSEE POLICE DEPARTMENT

---

1. Entry is facilitated by the CDA.
2. The Second Party Verification is completed by the Department.

### III. SEARCH WARRANTS TO SEIZE FIREARMS AND AMMUNITION

- A. When a law enforcement officer has probable cause to believe a person whom was served with an RPO failed to surrender all firearms and 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.
- C. Officers are responsible for adhering to the protocols of General Order 72 in obtaining and serving a search warrant.

### IV. RETURN AND DISPOSAL OF FIREARMS AND AMMUNITION

- A. This section is applicable for the return of firearms and ammunition seized and impounded by members as the result of a search warrant service as outlined in section III above.
- B. In situations where firearms or ammunition are subject to seizure or have been seized, but have not yet been impounded, 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 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:

## TALLAHASSEE POLICE DEPARTMENT

---

- 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.
- b. Officers are responsible for documenting any transfer of custody of the firearm or ammunition via a 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.
- C. In situations where firearms or ammunition are impounded and a person *other than the respondent* claims title to any of the items, Property and Evidence Unit members are responsible for the following:
1. 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 similar documents or a court order.
  3. If it is determined 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 or ammunition in such a manner the respondent does not have access to or control of the firearm or ammunition.
    - b. Any transfer of custody of the firearm or ammunition shall adhere to the protocols of General Order 42.
- D. If a risk protection order is vacated or ends without extension, the Department is responsible for returning any firearm or any ammunition owned by the respondent seized as the result of a search warrant service as outlined in section III above.

## TALLAHASSEE POLICE DEPARTMENT

---

1. The return of firearms and ammunition will only occur when requested by the respondent.
2. The return of firearms and ammunition will only occur after:
  - a. Confirming through a background check the respondent is currently eligible to own or possess firearms and ammunition under federal and state law,
  - b. Confirming with the court the RPO has been vacated or has ended without extension, and
  - c. Providing notice to any family or household member of the respondent that the firearm(s) and/or ammunition are being returned.
- E. A respondent may elect to transfer their impounded firearms and ammunition to another person who is willing to receive the firearms and ammunition.
- F. The Department is required to facilitate the transfer cited in subsection E above only if it is determined the chosen recipient:
  1. Currently is eligible to own or possess a firearm and ammunition under federal and state law after confirmation through a background check,
  2. Attests to storing the firearms and ammunition in such a manner the respondent does not have access to or control of the firearms and ammunition until the RPO against the respondent is vacated or ends without extension, and
  3. Attests not to transfer the firearms or ammunition back to the respondent until the RPO against the respondent is vacated or ends without extension.
- G. Any firearm and ammunition seized as the result of a search warrant service as outlined in section III above which remains unclaimed for one (1) year by the lawful owner after an order to vacate the RPO shall be disposed of in accordance with General Order 42.
- H. Any questions or concerns about the release of firearms or ammunition should be directed to the Legal Advisor.