

INSTRUCTIONAL ORDER

September 2018

Immediately

V.5:36

Distribution: All Employees

Subject: **RISK PROTECTION ORDERS AND RELATED BAKER ACTS**

Index as: Baker Act Risk Protection Order (RPO)
 Florida Risk Protection Order (RPO) RPO
 Marjory Stoneman Douglas Public Safety Act

Accreditation Standards: 1.2.5, 41.2.7, CFA 24.06

Cross Reference: [I.O. V.5:01, Persons Suffering from Mental Illness](#)

§§ 394.463790.401, Florida Statutes

Replaces: I.O. V.5:36, Risk Protection Orders and related Baker Acts (March 12, 2019)

This Order consists of the following sections:

- I. [Purpose](#)
- II. [Policy](#)
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- V. [Baker Acts Involving a Firearm, Weapon, or Ammunition Where No Risk Protection Order is Sought](#)
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I. PURPOSE

A. This Order establishes procedures for the issuance of a Risk Protection Order (RPO), and the arrest of a person found in violation of section 790.401, Florida Statutes. The RPO process is designed to prevent persons who are at high risk of harming themselves or others from accessing or possessing firearms or ammunition.

II. POLICY

A. It is the policy of the Department to protect the safety and welfare of all of its citizens by taking reasonable action to facilitate the procurement of a RPO in compliance with state and federal law.

B. All sworn members will receive initial training on policies and procedures regarding the RPO process.

III. DEFINITIONS

A. Risk Protection Order (RPO) – An Order entered by a judge, on a temporary or final basis, which is intended to temporarily prevent individuals who are at a high risk of harming themselves or others from accessing firearms or ammunition by allowing law enforcement officials to obtain a court order when there is demonstrated evidence that a person poses a significant danger to themselves or others, including a significant danger as a result of a mental health crisis or violent behavior.

IV. PROCESS FOR OBTAINING A RISK PROTECTION ORDER

A. The Pinellas County Sheriff's Office (PCSO) is the primary law enforcement agency through which all RPOs are sought in Pinellas County.

B. Before the PCSO begins their portion of the RPO process, the following must occur:

1. An Officer will immediately contact their Supervisor when they become aware of a situation where there is demonstrated evidence that a person poses a significant danger to themselves or others, including a significant danger because of a mental health crisis or violent behavior, and a firearm or ammunition is involved.

2. The Supervisor will assess the situation, and if they determine that an RPO may be warranted, they will immediately contact the Watch Commander.

3. The Watch Commander will assess the situation and determine if a request for an RPO will be initiated through VIPAR.

4. If the subject is also being charged with a crime, the Officer will include "Seeking RPO" in the Aggravating/Mitigating Factors and Narrative sections of the VIPAR arrest affidavit.

5. Where firearms, ammunition, and conceal carry licenses, if any, are taken in conjunction with an RPO, the Officer will mark clearly on the evidence bag or evidence tag "RPO surrender" or "Risk Protection Order."

a. The Officer will submit the firearms, ammunition, and conceal carry licenses, if any, to Property and Evidence.

b. Unless the items are being held for evidence of a crime, the Property and Evidence Unit will transfer these items to PCSO for storage.

c. The Officer will provide the subject a "RPO RECEIPT" form found in VIPAR.

6. The PCSO's VIPAR-based forms require the Officer to provide their phone number. The Officer will provide the phone number for the Emergency Communication Center's Non-Emergency Line (727-893-7780), and not their personal or Department-issued cell phone number.

7. Before the end of their shift, the Officer will complete all reports, paperwork, and forms related to the RPO and submit all original, signed (hard copy) [RPO Witness Affidavits](#) to the Records Division.

8. Before the end of their shift, the Watch Commander will send an email to RiskProtectionOrder@stpete.org.

a. The email will contain the following information:

1) Confirmation that all reports and paperwork related to the RPO have been completed and approved;

2) Confirmation that all original, signed (hard copy) [RPO Witness Affidavits](#) have been submitted to the Records Division to be attached to the police report;

3) The number of firearms involved and the disposition (i.e. turned over to family for safekeeping, submitted to Property and Evidence);

4) Whether the subject was arrested or taken into protective custody and, if so, the receiving facility they were transported to.

b. The following documents will be attached to the email:

1) Approved police reports;

2) [RPO Witness Affidavits](#)

3) VIPAR forms

9. Once approved by the Watch Commander, the Manager, Records Division, or designee, will email a copy of the completed, approved report with all completed attachments, including the hard copy [RPO Witness Affidavits](#), to PCSO at RPOFiling@psconet.com before the end of their shift.

C. PCSO will proceed with seeking the RPO through the Sixth Judicial Circuit Court. If an RPO is granted, PCSO will serve the RPO to the subject, enter the RPO information into FCIC/NCIC, and return the firearms, ammunitions, and conceal carry licenses in PCSO custody, if any, upon expiration of the RPO.

D. The Watch command will ensure the following are documented in the Watch Commander's Report prior to the end of their shift:

1. Any RPO request commenced during their shift; and
2. Any firearm seized pursuant to a Baker Act where no RPO is sought.

E. The Emergency Communication Division (ECD) will ensure that any RPO-related call is routed directly to the Officer, or their supervisor, to ensure that all court dates and time-sensitive information is clearly and quickly communicated.

1. Due to the time sensitivity of the RPO process, the ECD staff will not route RPO-related calls to a voicemail.
 - a. An ECD supervisor will be notified prior to contacting an off-duty officer.
 - b. If the ECD cannot reach the officer, the Watch Commander will be notified.
2. An Officer who is involved in the request for an RPO will return all RPO-related communication within 24-hours.

V. BAKER ACTS INVOLVING A FIREARM, WEAPON, OR AMMUNITION WHERE NO RISK PROTECTION ORDER IS SOUGHT

A. Pursuant to section 394.463, Florida Statutes, a law enforcement Officer who is taking custody of a person pursuant to a Baker Act may seize and hold a firearm or any ammunition the person possesses at the time they are taken into custody if the person poses a potential danger to themselves or others and has made a credible threat of violence against another person.

B. The Watch Commander will ensure that any firearm and/or ammunition seized or surrendered solely pursuant to a Baker Act, where no RPO is sought, and no related arrest has been made, is delivered to the Department's Property and Evidence Unit, and not transferred to PCSO.

1. Pursuant to section 394.463, Florida Statutes, such firearms and/or ammunition must be made available for speedy return upon a lawful request by the person from whom they were seized or surrendered. As a result, such firearms will not be sent to the lab.

2. The [Return of Firearm Requests Form](#) will be completed prior to the release of any firearms.

VI. PROCESS FOR SERVICE OF DOCUMENTATION AND EXECUTION OF SEARCH WARRANTS RELATED TO A RISK PROTECTION ORDER

A. The PCSO is the sole and lead law enforcement agency responsible for:

1. The service of all RPO-related documentation generated after the completion of the VIPAR process; and
2. The execution of any RPO-related search warrant.

B. The PCSO may request assistance from an SPPD Officer regarding the service of RPO-related documentation and the execution of any RPO-related search warrant. In such a case, the Officer must immediately refer the request to their Supervisor for evaluation, staffing, and coordination. The extent of an SPPD Officer's involvement in the search warrant process will be limited to exterior presence for jurisdictional purposes only. Absent exigent circumstances, an SPPD Officer will not enter the residence/premises.

VII. ARRESTS FOR VIOLATIONS OF A RISK PROTECTION ORDER

A. A person who has in their custody or control a firearm or any ammunition or who purchases, possesses, or receives a firearm or any ammunition with knowledge that they are prohibited from doing so by an RPO issued under section 790.401, Florida Statutes commits a felony of the third degree.

B. Before an Officer makes an arrest pursuant to section 790.401(11)(b), Florida Statutes, they will confirm the following:

1. An active RPO is recorded via NCIC/FCIC; and
2. The RPO was served and remains active via the Emergency Communications Center (ECHO channel). The ECC will:
 - a. During normal business hours, call the PCSO RPO Help Line (727-582-6170) to confirm that the RPO was served and remains active.
 - b. After hours, call the PCSO main number (727-582-6200) and ask for the available or on-call PCSO Threat Management Unit (TMU) Sergeant to confirm that the RPO was served and remains active.

VIII. QUESTIONS AND RESOURCES

A. A Supervisor with a question regarding the RPO process may:

1. Contact the Department's Legal Division during regular business hours.
2. Call the PCSO main number (727-582-6200) and request the available or on-call PCSO TMU Sergeant for immediate assistance during non-business hours.
3. Email the PCSO TMU at threatmanagement@pcsonet.com when an immediate response is not required.

Anthony Holloway
Chief of Police