



Florida Fish and Wildlife Conservation Commission
Division of Law Enforcement

CIVIL PROCESS AND RISK PROTECTION ORDERS

| GENERAL ORDER | EFFECTIVE DATE | RESCINDS/AMENDS | APPLICABILITY |
|---------------|-----------------|-----------------|-------------------|
| 19 | October 8, 2018 | July 21, 2008 | All Sworn Members |

REFERENCES

S. 741.30, F.S.; 790.401, F.S.; GO 05
CFA 24.01M, 24.02M, 24.06M

1 POLICY

- A** Sworn members of the Division may aid and assist other law enforcement agencies in the service and execution of legal process; however, the only civil process authorized for service by Division members is the service of domestic violence injunctions, and Division-generated subpoenas and seizure warrants. Sworn members may also be required to serve administrative notices which are directly related to Florida Fish and Wildlife Conservation Commission business in accordance with state law.
- B** It is the policy of the Division to quickly respond to any threat to public safety, while safeguarding due process rights of a respondent.
- C** Nothing in this General Order should be construed to allow Division sworn members to serve any civil process in an off-duty capacity or serve process outside of Commission-generated business without approval from the Division Director.
- D Definitions**
- (1) **Petitioner** – A law enforcement officer or a law enforcement agency that petitions a court for a risk protection order.
 - (2) **Respondent** – The individual who is identified as the respondent in a filed petition.
 - (3) **Risk Protection Order (RPO)** - An order entered by a judge which prohibits the possession or purchase of firearms or ammunition by respondent for the length of the time the order is in effect.
 - (4) **Temporary Ex Parte Order** – The signed order of a circuit court judge requiring the respondent surrender to the law enforcement entity any and all firearms and other concealed weapons and ammunition respondent has in his/her possession, and any license to carry a concealed weapon or firearm issued to respondent under section 790.06, Florida Statutes. Unless otherwise stated within the order, the order will be valid for a period of 14 days after the date the order was signed.

2 RESPONSIBILITIES

- A** Sworn members may be responsible for assisting other agencies authorized to execute civil process within the jurisdiction of the Commission when requested. Sworn members may also be requested to assist in certain civil processes such as domestic violence protection orders.
- B** Due to the fact the Division's primary function is the enforcement of fish, wildlife, boating and natural resource laws and regulations, sworn members shall make a reasonable effort to turn issues involving civil process and risk protection orders over to local law enforcement as soon as is possible.

3 PROCEDURES

A Assisting Local Law Enforcement Agencies

- (1)** Sworn members may assist those other law enforcement agencies authorized to execute civil process when requested. When a sworn member assists in the execution of, or an attempted execution of a civil process, including the service of domestic violence injunctions, the member will prepare an Incident Summary Report to document their activities.
- (2)** Sworn members also may be required to serve administrative notices involving Commission business including forfeiture proceedings, personnel actions, and other enforcement actions. When a sworn member serves an administrative notice on the Commission's behalf, the member will prepare an Incident Summary Report to document their activities.
- (3)** In the Incident Summary Report, the member shall document the following:
 - (a)** The date and time the process was served or attempted;
 - (b)** Name of the officer and department serving the process;
 - (c)** Reason for non-service, if applicable;
 - (d)** Method of service;
 - (e)** Location of service or attempted service; and
 - (f)** To whom the process was served or on whom executed.

B Service of Domestic Violence Injunctions

- (1)** Sworn members may be required to serve an Injunction for Protection Against Domestic Violence pursuant to Chapter 741.30, Florida Statutes when so requested and dictated by law:
 - (a)** When a sworn member is faced with a situation which requires the service of a domestic violence injunction, the officer shall contact the local Sheriff's Office and ascertain if that jurisdiction has the ability to serve the injunction. If the situation dictates that it is most feasible to have the injunction served by the Division, the sworn member shall serve the injunction in consultation with the Sheriff's Office personnel.
 - (b)** Sworn members shall not use force to execute the Domestic Violence Injunction, unless warranted and justified by statute, and in accordance with General Order 05, *Use of Force, Response to Resistance, Transporting Prisoners*.
- (2)** Sworn members who serve an Injunction for Protection Against Domestic Violence shall prepare a Return-of-Service form attached thereto, to include:
 - (a)** The date and time the process was served or attempted;
 - (b)** Name of the officer and department serving the process;
 - (c)** Reason for non-service, if applicable;
 - (d)** Method of service;

- (e) Location of service or attempted service; and
 - (f) To whom the process was served or on whom executed.
- (3) The completed Return-of-Service shall be forwarded to the Sheriff's Office with jurisdiction over the residence of the petitioner. This must be accomplished within 24 hours after service.
 - (4) A failure to state the foregoing facts listed in 3 B (2) (a) through (f) on the return may invalidate the service, but the return is amendable to state the truth at any time, on application to the court from which the process issued. On amendment, service is as effective as if the return had originally stated the omitted facts. A failure to state all the facts in the return shall subject the officer so failing, to a fine not exceeding \$10, in the court's discretion.

C Risk Protection Orders

- (1) Section 790.401, Florida Statutes, allows a law enforcement officer or agency to petition the court for an Ex Parte Risk Protection Order (or Temporary RPO) when the respondent poses a significant danger of causing personal injury to himself or herself or others by having a firearm or any ammunition in his or her custody or control by purchasing, possessing, or receiving a firearm. A temporary RPO requires the respondent to temporarily surrender to law enforcement all firearms and ammunition owned, pending a subsequent hearing that may consider a request for a longer period of time.
- (2) The statute does not affect the ability of a law enforcement officer to remove a firearm or ammunition or license to carry a concealed weapon or concealed firearm from any person or to conduct any search and seizure for firearms or ammunition pursuant to other lawful activity.
- (3) During the course of their duties, sworn members may encounter incidents where he/she determines an individual poses a significant danger of causing personal injury to himself or herself or others by having a firearm or any ammunition in his or her custody or control; or purchasing, possessing, or receiving a firearm. Should a sworn member encounter this type of situation, the following procedures shall be followed:
 - (a) Utilize appropriate officer safety measures as warranted;
 - (b) Obtain medical assistance (EMS) for the subject(s) or victim(s), if necessary;
 - (c) Request the assistance of the local law enforcement agency in the jurisdiction in which the individual lives to file the petition for a Risk Protection Order (RPO);
 - (d) Provide protection for all parties pending arrival of local law enforcement;
- (4) If a response by local law enforcement is not possible, the sworn member shall refer to Section 790.401, Florida Statutes, for the requirements to file the petition for an RPO.
 - (a) The sworn member shall contact his or her supervisor and, if possible, the Office of General Counsel prior to filing the petition.
 - (b) If a sworn member filed a petition and the petition was granted, the sworn member shall:
 - (1) Contact the appropriate Sheriff's Office for service of the RPO;
 - (2) Coordinate with the appropriate Sheriff's Office to ensure entry of the RPO is made into FCIC/NCIC;
 - (3) Coordinate with the appropriate Sheriff's Office to ensure that the firearms, ammunition, and license documented in the petition are taken into custody, stored accordingly, and a receipt is provided to the respondent identifying the firearms, the quantity and type of ammunition, and any license surrendered or seized;
 - (4) Coordinate with the appropriate Sheriff's Office to ensure that required notification to the respondent is made.

- (c) An incident summary report shall be completed, and copies of all pertinent paperwork shall be required anytime a sworn member petitions for an RPO.
- (d) If a sworn member had a petition for an RPO granted and the RPO is vacated or ends without extension, coordinate as needed with the appropriate Sheriff's Office to return any surrendered or seized firearm, ammunition, and license.
 - (1) The return of any firearm, ammunition, and license shall only occur after confirming through a background check that the respondent is currently eligible to own or possess firearms and ammunition under federal and state law.
 - (2) An incident summary report shall be completed documenting the background check and the return of any surrendered or seized firearm, ammunition, and license.
- (e) Sworn members shall receive initial and periodic training on the Division's RPO policy via PowerDMS.

4 FORMS

| FORM NUMBER | FORM TITLE |
|-------------|-------------------------|
| | Incident Summary Report |