

JUSTICE AND PUBLIC SAFETY CABINET
Internal Investigations Branch
(Amendment)

500 KAR 3:020. Filing and processing SLPO commissions.

RELATES TO: KRS 61.300, 61.360, 61.990, 62.010, 62.990

STATUTORY AUTHORITY: KRS 15A.160

NECESSITY, FUNCTION, AND CONFORMITY: KRS 15A.160 authorizes the secretary of the Justice and Public Safety Cabinet to promulgate administrative regulations in accordance with KRS Chapter 13A and direct proceedings and actions for the administration of all laws and functions which are vested in the cabinet, except laws and functions vested in the Department for Public Advocacy. KRS 61.360 authorizes the Governor or the Governor's agent to appoint Special Local Peace Officers. This administrative regulation establishes the criteria and procedure for applying for a commission as a Special Local Peace Officer.

Section 1. Qualifications to Apply for Commission as a Special Local Peace Officer. To qualify for a commission as a SLPO, an applicant shall present satisfactory evidence of compliance with the conditions and requirements established in KRS 61.360.

Section 2. Application for Commission and renewal of Commission as a Special Local Peace Officer. Applications from the property owner for an initial SLPO commission for a SLPO applicant shall be sent to the SLPO program administrator and shall comply with the following requirements:

(1) An applicant shall meet the requirements of KRS 61.360 before a commission is granted. An applicant who qualifies may hold additional commissions for different property locations.

(2) The applicant shall complete two (2) notarized "SLPO Application Candidate Information (SLPO-1)" forms, which shall include the following:

- (a) The name of the property owner;
- (b) The name, address, date of birth, and Social Security number of the applicant and a detailed personal description;
- (c) A certified copy of the applicant's birth certificate;
- (d) Two (2) photographs of the applicant, which shall be:
 - 1. Full face;
 - 2. At least three (3) inches by five (5) inches in size; and
 - 3. Taken within thirty (30) days prior to submission of the application;
- (e) A copy of the applicant's military discharge or Form DD-214, if the applicant is a veteran;
- (f) The signature of the property owner;
- (g) A statement of all arrests and convictions, including traffic offenses committed within the past ten (10) years, violations, misdemeanors, or felonies; and
- (h) The notarized signature of the applicant.

(3) The ten (10) dollar application fee shall be:

- (a) Submitted with the application form;
- (b) Nonrefundable; and
- (c) Submitted by check or money order made payable to the Kentucky State Treasurer.

(4) Submission of any false or misleading information or the withholding of information requested on the application or by the cabinet investigator may be grounds for rejection without further consideration.

(5) An applicant shall be fingerprinted by an approved vendor. The property owner or applicant shall contact the SLPO program administrator for information related to an

approved vendor.

(6) The application shall also contain the Authority to Release Information Form (SLPO-4) to allow the release of all necessary information to the SLPO program administrator. It shall be signed by the applicant and notarized or may be witnessed by the SLPO program administrator or SLPO program administrator's designee.

(7) The applicant shall also sign the SLPO Acknowledgment Notice Form (SLPO-5), which indicates that the applicant:

(a) Received, read, and understands:

1. KRS 61.300;
2. KRS 61.360;
3. KRS 61.991;
4. KRS 62.010;
5. KRS 62.990; and
6. The administrative regulations in 500 KAR Chapter 3;

(b) Acknowledges that the applicant's authority is limited and restricted under the SLPO Act, cited in paragraph (a) of this subsection.

(8) A Letter of Intent Form (SLPO-3) shall be filed with each application by the property owner giving the name of applicant and the specific private property to be protected. If the property is owned by more than one person or entity, a single property owner may file. This letter shall accompany the application forms for an initial SLPO application and renewal application.

(9) A copy of or information to identify the bond issued as required by KRS 61.360.

(10) The applicant shall arrange for an interview with the SLPO program administrator or assigned cabinet investigator.

(11) [(If the application is incomplete, or otherwise defective or in conflict with the SLPO Act, cited in subsection (7)(a) of this section or 500 KAR Chapter 3, the application shall be returned to the property owner. An application may be corrected and resubmitted at no additional cost if it is resubmitted within sixty (60) days of the date the property owner is sent notice of the deficiencies by the SLPO program administrator.

(12) In the case of a SLPO commission renewal, the process outlined for an initial SLPO commission shall be followed. However, in lieu of two (2) SLPO 1 Forms, two (2) complete, signed, and notarized SLPO Renewal Application Forms (SLPO-7) for each applicant shall be filed with the SLPO program administrator at least sixty (60) days before the expiration date of the existing commission.

Section 3. The Grant of the Commission and the Required Oath of Office. A commission for a SLPO shall be validated and granted as follows:

(1) If the applicant has successfully satisfied the requirements of the statutes cited in Section 2(7)(a) of this administrative regulation, a commission certificate shall be forwarded by the SLPO program administrator to the secretary or the secretary's designee for review. After the commission is issued by the secretary or the secretary's designee, a copy of the commission shall be placed in the SLPO's file.

(2) If a commission is granted:

(a) The commission, one (1) application, and two (2) County Clerk Oath forms (SLPO-6) shall be forwarded by the cabinet to the property owner.

(b) The appointed applicant shall promptly take the application and the two (2) County Clerk Oath forms to the county clerk in the county where the applicant is to serve and shall take the constitutional oath of office within thirty (30) days after notice of appointment.

(c) The county clerk shall then complete and sign the clerk's attestation on both County Clerk Oath forms and retain the application and one (1) of the County Clerk Oath forms for filing purposes in the county clerk's office.

- (d) The applicant shall return the second County Clerk Oath form signed by the county clerk to the property owner.
- (e) The property owner shall then return the second County Clerk Oath form to the SLPO program administrator to indicate that the oath was administered and that the application and one (1) of the County Clerk Oath forms are filed with the county clerk.
- (f) The property owner shall be allowed thirty (30) days to arrange for the appointed applicant to take the oath of office and return the second County Clerk Oath form to the SLPO program administrator. If the County Clerk Oath form not returned within thirty (30) days, the commission shall be revoked in accordance with KRS 62.010 and 62.990.
- (g) The commission certificate shall be kept by the property owner so long as the SLPO is employed or until the SLPO's authority is terminated by the expiration of the commission term or action of the property owner, the secretary, or the secretary's designee.
- (3) A SLPO Commission shall be issued for a period of two (2) years, if the SLPO continues to meet all statutory and regulatory criteria.
- (4) After the SLPO has taken the constitutional oath of office, the property owner shall issue an identification card that shall be carried by the SLPO whenever the SLPO is acting under the authority of KRS 61.360. The identification card shall be presented as required by any duly sworn peace officer or cabinet official and is subject to control by the cabinet. The identification card shall be:
- (a) Encased in plastic;
 - (b) Billfold size 2 1/4 inches x 3 1/2 inches;
 - (c) Composed as follows:
 1. One (1) side containing the following language: "The holder of this card has been commissioned as a Special Local Peace Officer (SLPO), pursuant to KRS 61.360. As a SLPO, the holder of this card is deemed to be a peace officer within the meaning of KRS 527.020 and may exercise the limited powers of a peace officer granted by KRS 61.360"; and
 2. The other side containing a full-faced photograph of the SLPO and:
 - a. The SLPO's name;
 - b. An identification or notation that the SLPO has been commissioned as a "Special Local Peace Officer";
 - c. The name and signature of the property owner employing the SLPO; and
 - d. The SLPO's badge number, if any; and
 3. Immediately returned to and destroyed by the property owner employing the SLPO if for any reason the SLPO is terminated or otherwise relieved of the duties of a SLPO by the property owner or the SPLO's commission is terminated by the cabinet. It shall be the responsibility of the property owner to obtain and destroy the identification card from any SLPO whose employment or commission is terminated.
- (5) A notice shall be forwarded to the property owner concerning any SLPO whose appointment has been suspended or revoked by the secretary or the secretary's designee. The property owner shall maintain current files and make renewal applications at least sixty (60) days prior to the commission's expiration date.
- (6) The applicant shall not exercise the authority of a SLPO until the property owner has received the commission certificate from the cabinet.
- (7) The SLPO commission certificate shall be held by the property owner and shall be available for inspection by the SLPO program administrator or SLPO program administrator's designee. The commission certificate remains the property of the cabinet and is to be returned upon the SLPO's authority being withdrawn for any reason.

Section 4. Denial of an Application.

- (1) If an application for commission as a SLPO is denied, within thirty (30) days of the determination, the SLPO program administrator shall serve upon the applicant a letter setting forth the basis of the SLPO program administrator's determination.
- (2) The applicant and property owner may appeal the determination within thirty (30) days of the date of the written notice that the application has been denied. An appeal shall be filed:
 - (a) In writing with the secretary or the secretary's designee; and
 - (b) Set forth the basis of the appeal.
- (3) Within thirty (30) days of receipt of a written appeal, the secretary or secretary's designee:
 - (a) May request additional information from the applicant, property owner, and the SLPO program administrator;
 - (b) Shall consider the information provided by the applicant, property owner, and SLPO program administrator; and
 - (c) Shall provide a written decision setting forth the factual basis in support of the determination.
- (4) An applicant who is denied a commission shall not submit another SLPO application for at least one (1) year.

Section 5. Records, Reports and Responsibility.

- (1) The property owner shall maintain a file for each SLPO that includes:
 - (a) The SLPO's commission certificate;
 - (b) The expiration date of the SLPO's commission;
 - (c) A copy of the identification card issued to the SLPO;
 - (d) Any complaint concerning the SLPO with the results of the investigation; and
 - (e) A copy of or information to identify the bond issued as required by KRS 61.360.
- (2) The property owner shall post a copy of 500 KAR Chapter 3 and a copy of KRS 61.360 and 61.990 in a conspicuous location in any office or building that is designated security headquarters for persons operating as SLPOs.
- (3) Complaints or unusual incidents involving a SLPO shall be handled by the property owner whose private property is being protected by the SLPO involved. However, the property owner shall notify the SLPO program administrator by direct verbal communication within twenty-four (24) hours of any reported incident involving any act as enumerated in KRS 61.360(1)(c) by any of its SLPOs. A written report shall be filed with the SLPO program administrator, within thirty (30) days of the original oral report, stating the details of the incident and listing any action taken by the property owner. If formal charges are pending, the property owner shall advise the SLPO program administrator as to all specific charges, trial dates, and the final disposition of all charges.
- (4) The property owner shall mail or e-mail to the SLPO program administrator by June 30 of each year:
 - (a) A current list of all active SLPO personnel; and
 - (b) The number of arrests made or citations issued by the SLPO the previous calendar year.
- (5) If the bond required by KRS 61.360 is cancelled or revoked, the property owner shall notify the cabinet of this fact and the reason for cancellation or revocation.

Section 6. Violations. A property owner utilizing SLPO's shall be subject to inspection and investigation by the cabinet or SLPO program administrator for possible violations, which may include the inspection and investigation of all files related to any SLPO commission maintained by the property owner. Violations may result in prosecution and recommendation to the secretary or the secretary's designee that the commission affected be revoked.

Section 7. Revocation or Suspension of SLPO Commissions.

(1) If the SLPO program administrator determines that a disqualifying factor in KRS 61.360(1) of the SLPO Act applies to a commissioned SLPO, the SLPO program administrator shall notify the secretary or the secretary's designee who shall revoke or suspend the commission of the SLPO, after an administrative hearing conducted in accordance with KRS Chapter 13B, if the secretary or the secretary's designee determines:

- (a) That the SLPO does not meet, or no longer meets the requirements and conditions for the commission;
- (b) That the SLPO has knowingly falsified an application or portion thereof, or has knowingly made any false or misleading statement of a material fact to the cabinet; or
- (c) That the SLPO has violated any of the Kentucky Revised Statutes or administrative regulations cited in Section 2(7)(a) of this administrative regulation, or order of the secretary or the secretary's designee.

(2) Upon revocation or suspension the SLPO program administrator shall notify the property owner involved to return the commission of the SLPO involved to the SLPO program administrator. The property owner responsible for the SLPO shall forward a letter to the SLPO involved stating that the SLPO's commission has been revoked or suspended and that the SLPO shall immediately return the SLPO identification card to the property owner.

(3) The secretary or the secretary's designee may temporarily suspend the commission of an SLPO prior to holding a hearing pursuant to KRS Chapter 13B if the secretary or the secretary's designee believes that the safety of the public requires that action. If a commission is temporarily suspended prior to holding a hearing pursuant to KRS Chapter 13B, the secretary or the secretary's designee shall hold a KRS Chapter 13B hearing not later than thirty (30) days from the date of the temporary suspension unless the SLPO requests an extension for a time certain. If the SLPO requests an extension for a time certain, then the commission shall remain suspended until the conclusion of the hearing.

(4) The SLPO program administrator shall notify the county clerk in the SLPO's county of jurisdiction if a SLPO's commission has been surrendered, suspended, or revoked.

Section 8. Procedures for Investigating Complaints or Unusual Incidents Involving a SLPO.

(1) Complaints or unusual incidents involving a SLPO shall be handled by the property owner whose private property is being protected by the SLPO involved. The property owner shall notify the cabinet of all incidents involving their SLPO personnel as indicated in Section 5 of this administrative regulation.

(2) The SLPO program administrator or other assigned investigator may investigate any complaints or unusual incidents involving a SLPO if there is reason to believe the provisions of KRS 61.360 or other applicable laws have been violated and an investigation is necessary.

(3) Any investigation conducted by the cabinet shall become part of the official record of the SLPO involved.

Section 9. Incorporation by Reference.

(1) The following material is incorporated by reference:

- (a) "SLPO Application Candidate Information Form (SLPO-1)", 2023;
- (b) "Letter of Intent Form (SLPO-3)", 2023;
- (c) "Authority to Release Information Form (SLPO-4)", 2023;
- (d) "SLPO Acknowledgment Notice Form (SLPO-5)", 2023;
- (e) "County Clerk Oath" Form (SLPO-6), 2023; and
- (f) "SLPO Renewal Application Form (SLPO-7)" 2023.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Justice and Public Safety Cabinet, 125 Holmes Street, Frankfort, Kentucky

40601, Monday through Friday, 8 a.m. to 4:30 p.m. This material may be viewed on the Justice and Public Safety Cabinet Web site in the SLPO area at <https://justice.ky.gov/Departments-Agencies/iib/Pages/sleo.aspx> or <https://justice.ky.gov/about/pages/lrcfilings.aspx>.

KERRY HARVEY, Secretary

APPROVED BY AGENCY: March 21, 2023 at 12:30 p.m.

FILED WITH LRC: March 16, 2023

PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this administrative regulation shall be held on June 26, 2023, at 9:00 a.m. at the Justice and Public Safety Cabinet, 125 Holmes Street, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until June 30, 2023. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

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