

Columbus Police Division Directive	EFFECTIVE	NUMBER
	Apr. 15, 2010	3.09
	REVISED	TOTAL PAGES
	Mar. 30, 2014	6
Protection Orders		



I. Introduction

- A. Failure to enforce a valid protection order can lead to further victimization of the individual seeking protection, and possible civil action against the officer or the Division.
- B. Ohio Revised Code Section 2935.032, "Written Policy and Procedure for Responding to Domestic Violence Incidents or Protection Order Violations," provides immunity under state law from civil liability to law enforcement officers who arrest an individual for the offense of Violation of a Protection Order when the order appears valid on its face **and the order has been served**.
- C. Federal statutes allows law enforcement officers to arrest an individual for violating a protection order wherever the infraction occurs, not just in the issuing jurisdiction or state.
- D. Ohio Revised Code Section 2919.27, "Violation of a Protection Order," requires the mental culpability of 'recklessly' be established as an element to develop probable cause to charge an individual under this code. An individual is considered to have acted recklessly when the individual should have known their actions would violate the terms of the protection order.
- E. The terms or conditions listed on a protection order can only be changed by the issuing court and are not waived if the petitioner invites, encourages, or initiates contact with the respondent. Also, the petitioner cannot be charged with violating their own protection order, even if the petitioner initiated or encouraged contact with the respondent.

II. Definitions

- A. Domestic Violence Temporary Protection Order (DVTPO)
 1. A criminal order issued by either the Municipal or Common Pleas Court and accompanies a criminal charge.
 2. The parties involved were family or household members at the time of the offense.
 3. The order is valid only while the criminal charge is pending before the court.
 4. A DVTPO is enforceable upon being issued by the court **and served upon the respondent**.

B. Civil Protection Order (CPO)

1. A civil order issued by the Domestic Relations Division of the Common Pleas Court.
2. The involved parties are family or household members.
3. A CPO is enforceable once the respondent has been served with the order.
4. When a CPO and a DVTPO are both in effect, the CPO should be enforced over the DVTPO.

C. Civil Stalking or Sexually-Oriented Offense Protection Order (SSOOPO)

1. A civil order issued by the General Division of the Common Pleas Court to protect victims of stalking.
2. The relationship between the involved parties is inconsequential.
3. A SSOOPO is enforceable once the respondent has been served with the order.

D. Criminal Protection Order (CRPO)

1. A criminal order issued by either the Municipal or Common Pleas Court and accompanies a criminal charge.
2. The parties involved are not family or household members.
3. The order is only valid while the criminal charge is pending before the court.
4. A CRPO is enforceable upon being issued by the court **and served upon the respondent**.

E. Juvenile Protection Order (**JPO**)

1. A civil order issued by the Juvenile Division of the Common Pleas Court.
2. The respondent is a juvenile.
3. A **JPO** is enforceable once the respondent has been served with the order.

F. Restraining Order

1. An order issued out of a civil court action directing the defendant from contacting, harassing, threatening, or abusing the plaintiff.
2. An individual may not be arrested for the violation of a restraining order.

G. Stay Away Order

1. An order issued by a judge to a defendant to stay away from the victim as a condition of their bond or probation.
2. An individual may not be arrested for the violation of a stay away order.

III. Policy Statements

A. **Protection Orders Issued by an Ohio Court**

Sworn personnel shall verify that a protection order issued by an Ohio Court has been served upon the respondent prior to any enforcement action for violation of the order.

B. Protection Orders Issued by a Court Outside of Ohio

- 1. Sworn personnel shall make a reasonable effort to verify that a protection order issued by a court outside of Ohio has been served upon the respondent prior to any enforcement action for violation of the order.**
2. When verification of **service of** a protection order **issued by a state outside of Ohio** cannot be made, a copy of a protection order shall be presumed valid on its face **and shall be enforced** when the copy shows the following:
 - a. Names of the involved parties,
 - b. Issue date,
 - c. The order has not expired,
 - d. Terms and conditions against the respondent are specified,
 - e. Name of the issuing court, and
 - f. A signature of a judicial officer.
3. The following is not required of a victim's copy of a protection order to be considered valid:
 - a. Attached certification form,
 - b. Original signature of the issuing authority,
 - c. Raised seal or stamp from the issuing court, or
 - d. Registered with the enforcing jurisdiction.
- C. Sworn personnel shall enforce all terms and conditions of a valid protection order, including those issued in another jurisdiction or state. It is not necessary to possess a copy of the order to enforce a valid protection order.
- D. In situations where sworn personnel have reasonable **suspicion** that a protection order exists or a respondent has violated the terms or conditions of a protection order, sworn personnel shall follow the procedures of this directive and attempt to verify the terms, conditions, validity, **and service** of the protection order.
- E. Recognizing that some civilians are unfamiliar with the technical names or terms of court orders, when there is reasonable **suspicion** that a court order exists, sworn personnel shall attempt to verify if the order is a protection order.
- F. Sworn personnel shall complete an **electronic** report to document each incident investigated involving the possible violation of a protection order. This includes situations when there is a claim that a protection order exists but there is no copy of the order and the order cannot be verified.

Sworn personnel shall document all attempts to verify service of a protection order within the electronic report.

- G. Sworn personnel shall complete an **electronic** report to document situations involving a restraining order or a stay away order, and instruct the victim to respond back to the court that issued the order.
- H. Sworn personnel will have developed probable cause that a suspect has violated the terms or conditions of a protection order when the victim or witness provides a written statement supporting such. However, it shall not be required that the victim provide a written statement, consent to charges, or sign a complaint as a prerequisite for filing charges.
- I. Arrest is the preferred course of action when there is probable cause that a suspect has violated the terms or conditions of a valid protection order. However, when the suspect is not present to be arrested, the preferred course of action is to file an arrest warrant.
- J. Sworn personnel shall document and explain in the **electronic** report the reasons when an arrest was not made or charges were not filed although there was probable cause the suspect violated a protection order.
- K. Sworn personnel shall comply with the “Domestic Violence” directive for incidents involving the violation of a protection order in which the suspect is a family or household member of the victim.
- L. Sworn personnel should advise the respondent of the existence of the protection order and of the respondent’s duty to refrain from any further contact with the petitioner when encountering a situation in which the petitioner has obtained a protection order but the respondent has no knowledge of the order, and it has been verified that the respondent has not been served with the order when required. Sworn personnel should also contact the issuing authority and assist in the service of the order if possible.
- M. Sworn personnel may **not** enforce a protection order **based on** constructive notice. Constructive notice **refers to a situation** when there is probable cause that **the respondent** had knowledge of the protection order or the terms and/or conditions of the order, although **the respondent** has not been officially served with the order.
- N. In situations in which the petitioner or respondent requests police presence for purposes of meeting the other party or responding to a restricted location, sworn personnel shall strictly follow the terms and conditions of the protection order. In these situations, sworn personnel shall allow only actions permitted by the terms of protection order, and any terms or conditions not specifically mentioned in the order will be considered prohibited. For example, sworn personnel shall not facilitate the respondent being present within five-hundred feet of the petitioner to retrieve property unless the court has listed a time for this activity in the protection order and it is within the specified time period.

IV. Procedures

A. Sworn Personnel

1. Separate involved parties and prevent the defendant from approaching the victim or entering any place that may be restricted by the protection order.
2. Check involved parties for outstanding warrants.
3. Verify the **validity of the** protection order and **determine if the respondent has been served**. Follow the procedures outlined in Section IV,C, as appropriate. The Records Unit may be contacted to verify orders issued in Franklin County.
4. If **service of an out-of-state** protection order cannot be verified, use a copy of the order to determine if it is valid based on the criterion listed in Section III,**B**.
5. Take appropriate enforcement action.
6. Contact Communications Bureau personnel when a warrant is filed and request the following known information be broadcast on all patrol radio channels:
 - a. Suspect's name and physical description
 - b. Suspect's vehicle description
 - c. Suspect's address, location, or destination
 - d. Charges filed
7. Document the following known information in the Arrest Information, form U.10-100, when an arrest is made or charges are filed:
 - a. Judge/Magistrate who issued the order
 - b. The court and county that issued the order
 - c. Case number
 - d. Date issued and date the order was served
 - e. Suspect's actions that violated the order
 - f. Name the protected party whom the suspect contacted/violated
8. Complete an **electronic** report and include the actions taken to verify **the service and validity of** a protection order and the results.

B. Records Unit

1. Verify protection orders issued in Franklin County by following the procedures outlined in Section IV,C,1 and Section IV,C,2.
2. Notify requesting personnel of the verification results.

C. Verifying Protection Orders

1. Provide the following known information:
 - a. Type of protection order
 - b. Names of the involved parties

- c. Case number
 - d. Issuing court
 - e. Issuing judge or magistrate
 - f. Date of filing
2. For Protection Orders issued in Franklin County
- a. For a DVTPO or CRPO
 - (1) Contact the Municipal Clerk of Courts Office and/or Common Pleas Clerk of Courts Office
 - (2) Determine the following:
 - (a) If the case is still pending and/or **has** been bound over as a felony.
 - (b) If the protection order was issued **and when the respondent was served.**
 - (c) If the protection order was removed.
 - b. For a SSOOPO or CPO
 - (1) Contact the Franklin County Sheriff's Office
 - (2) Determine if the protection order was served on the respondent.
 - c. If the type of protection order is unknown, follow procedures in both Section IV,C,2,a and Section IV,C,2,b.
3. Protection orders issued in another jurisdiction or state:
- a. Run both the victim and suspect's information through LEADS. Confirm the elements of the order through NCIC.
 - b. Contact the clerk of courts, law enforcement agency, or prosecutor's office in the issuing jurisdiction **to determine if the order was issued and when the respondent was served.**
 - c. Review the elements of the order through the state or local registry of the issuing jurisdiction.
 - d. Review the elements of the order if previously filed with authorities in the enforcing jurisdiction.