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<b>Protection Orders</b>		



Cross Reference: [3.01](#), [4.05](#), [6.02](#)

## 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 communicated to the respondent in one of the three ways explained in Ohio Revised Code Section 2919.27(D).
- C. Federal statutes allow law enforcement officers to arrest the respondent 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 **that** the mental culpability of “recklessly” be established as an element to develop probable cause to charge the respondent under this code.
  1. The respondent is considered to have acted recklessly when he or she should have known his or her actions would violate the terms of the protection order after it **was** communicated to him or her pursuant to Ohio Revised Code Section 2919.27(D).
  2. A protection order is considered to have been communicated to the respondent pursuant to Ohio Revised Code Section 2919.27(D), and thus becomes enforceable, when he or she has been:
    - a. Personally served the protection order; or
    - b. Shown the protection order (or a copy thereof) by another individual; or
    - c. Informed of the issuance of the protection order by a law enforcement officer, judge, or magistrate.
- 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 his or her 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. ADVTPO is enforceable upon being issued by the court and communicated to 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 order has been communicated to the respondent.
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 order has been communicated to the respondent.

### 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. ACRPO is enforceable upon being issued by the court and communicated to 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 order has been communicated to the respondent.

### ***F. Dating Violence Civil Protection Order (DTCPO)***

1. ***A civil order issued by the Domestic Relations Division of the Common Pleas Court.***

- 2. The involved parties are adults who, at the time of the conduct in question, were involved in a dating relationship or who, within the twelve months preceding the conduct in question, were involved in a dating relationship.*
- 3. ADTCPO is enforceable once the order has been communicated to the respondent.*

#### **G. Post-Conviction No Contact Order (NCO)**

- 1. An order issued only post conviction by either the Municipal or Common Pleas Court.*
- 2. No contact is allowed with the named protected party.*
- 3. The order is valid only until the date on which probation ends unless otherwise indicated.*
- 4. A Post-Conviction NCO is enforceable upon being issued by the court. Verification of communication to the respondent is not required.*

#### **H. Restraining Order**

- 1. An order issued out of a civil court action prohibiting the defendant from contacting, harassing, threatening, or abusing the petitioner.*
- 2. The respondent may not be arrested for the violation of a restraining order.*

#### **I. 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.*
- 2. The respondent may not be arrested for the violation of a stay away order.*

### **III. Policy Statements**

- A. Sworn personnel shall enforce all terms and conditions of a valid protection order, including those issued in another jurisdiction or state, when there is probable cause that the protection order has been communicated to the respondent pursuant to Ohio Revised Code Section 2919.27(D). It is not necessary to possess a copy of the order to enforce a valid protection order.*
- B. 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.*
- C. Sworn personnel may arrest an individual when they have probable cause to believe that the individual has violated the terms of a Post-Conviction NCO. Sworn personnel should use their discretion in determining if making an arrest is appropriate and should consider the following:*

- 1. Was the original offense an offense of violence?**
  - 2. Does the officer believe the situation will turn violent?**
  - 3. Has the individual repeatedly violated the terms of the Post-Conviction NCO?**
  - 4. Has the individual refused the officer's orders to leave a location that the Post-Conviction NCO prohibits him or her from entering?**
- D. Protection Orders Issued by an Ohio Court**
- Sworn personnel shall verify that a protection order issued by an Ohio Court has been communicated to the respondent prior to any enforcement action for violation of the order.
- E. 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 communicated to the respondent prior to any enforcement action for violation of the order.
  2. When verification of communication 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 are 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.
- F. 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 communication of the protection order.**
- G. Recognizing that some citizens 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.**

- H.** 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 communication of a protection order in the electronic report.
- I.** 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 or to contact the prosecutor's office if one was involved in the case.
- J.** 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.
- K.** 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.
- L.** ***Sworn personnel shall document and explain in the electronic report the reasons when an arrest was not made although there was probable cause the suspect violated a Post-Conviction NCO.***
- M.** 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.
- N.** Sworn personnel shall inform 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 order has not been communicated to the respondent. Sworn personnel shall ***complete Form 10-D Notice to Respondent or Defendant and*** document the communication of the protection order in the electronic report. Include the date, time, and location and whether a Cruiser Video System or Body-Worn Camera recording exists.
- O.** 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 suspect 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 order has been communicated to the respondent. Follow the procedures outlined in Section IV,C as appropriate. The Records Unit may be contacted to verify orders issued in Franklin County.
  - a. ***If it is determined that a protection order issued by an Ohio court has not been communicated to the respondent:***
    - (1) ***Complete Form 10-D Notice to Respondent or Defendant.***
    - (2) ***Scan and email the form to CourtLiaison@columbuspolice.org.***
      - (a) ***In the subject line of the email, include the type of form attached and the court that issued the protection order.***
      - (b) ***Send the original form to the Court Liaison Section via interoffice mail.***
    - (3) ***Complete a Miscellaneous Incident Report when the sole purpose of the report is to document the notification of a protection order to the respondent.***
4. ***Verify the existence of the Post-Conviction NCO through the Records Unit.***
  - a. ***When an arrest is made, follow the procedures in the “Arrest and Warrants” directive.***
  - b. ***When no arrest is made complete a Miscellaneous Offense Report, refer the victim to contact the appropriate probation department for investigation, and follow the procedures in the “Arrest and Warrants” directive.***
5. If communication 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,***E***.
6. Take appropriate enforcement action.
7. 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

8. Document the following known information **on** 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 communicated
  - e. Suspect's actions that violated the order
  - f. Name **of** the protected party whom the suspect contacted/violated
9. ***When a respondent surrenders deadly weapons, including firearms and ammunition, for protective custody pursuant to a civil or criminal protection order:***
  - a. ***Complete Form 10-F Notice of Receipt.***
  - b. ***Complete a Property Receipt, form S-36.116, and provide the respondent with a copy.***
  - c. ***Scan and email the Form 10-F to CourtLiaison@columbuspolice.org.***
    - (1) ***In the subject line of the email, include the type of form attached and the court that issued the protection order.***
    - (2) ***Send the original form to the Court Liaison Section via interoffice mail.***
  - d. ***Submit surrendered items to the Property Control Unit.***
10. Complete an electronic report and include the actions taken to verify the communication 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. ***Verify the existence of a Post-Conviction NCO through LEADS.***
3. 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, CRPO, **or DTCPO**
    - (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 order was communicated to the respondent.
      - (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 communicated to the respondent.
  - c. If the type of protection order is unknown, follow **the** 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 order was communicated to the respondent.
  - 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.