



## Ohio Revised Code

### Section 2935.032 Written policy and procedure for responding to domestic violence incidents or protection order violations.

Effective: October 21, 1997

Legislation: Senate Bill 1 - 122nd General Assembly

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(A) Not later than ninety days after the effective date of this amendment, each agency, instrumentality, or political subdivision that is served by any peace officer described in division (B)(1) of section 2935.03 of the Revised Code shall adopt, in accordance with division (E) of this section, written policies, written procedures implementing the policies, and other written procedures for the peace officers who serve it to follow in implementing division (B)(3) of section 2935.03 of the Revised Code and for their appropriate response to each report of an alleged incident of the offense of domestic violence or an alleged incident of the offense of violating a protection order. The policies and procedures shall conform to and be consistent with the provisions of divisions (B)(1) and (B)(3) of section 2935.03 of the Revised Code and divisions (B) to (D) of this section. Each policy adopted under this division shall include, but not be limited to, all of the following:

(1) Provisions specifying that, if a peace officer who serves the agency, instrumentality, or political subdivision responds to an alleged incident of the offense of domestic violence, an alleged incident of the offense of violating a protection order, or an alleged incident of any other offense, both of the following apply:

(a) If the officer determines that there are reasonable grounds to believe that a person knowingly caused serious physical harm to another or to another's unborn or knowingly caused or attempted to cause physical harm to another or to another's unborn by means of a deadly weapon or dangerous ordnance, then, regardless of whether the victim of the offense was a family or household member of the offender, the officer shall treat the incident as felonious assault, shall consider the offender to have committed and the victim to have been the victim of felonious assault, shall consider the offense that was committed to have been felonious assault in determining the manner in which the offender should be treated, and shall comply with whichever of the following is applicable:

(i) Unless the officer has reasonable cause to believe that, during the incident, the offender who committed the felonious assault and one or more other persons committed offenses against each



other, the officer shall arrest the offender who committed the felonious assault pursuant to section 2935.03 of the Revised Code and shall detain that offender pursuant to that section until a warrant can be obtained, and the arrest shall be for felonious assault.

(ii) If the officer has reasonable cause to believe that, during the incident, the offender who committed the felonious assault and one or more other persons committed offenses against each other, the officer shall determine in accordance with division (B)(3)(d) of section 2935.03 of the Revised Code which of those persons is the primary physical aggressor. If the offender who committed the felonious assault is the primary physical aggressor, the officer shall arrest that offender for felonious assault pursuant to section 2935.03 of the Revised Code and shall detain that offender pursuant to that section until a warrant can be obtained, and the officer is not required to arrest but may arrest pursuant to section 2935.03 of the Revised Code any other person who committed an offense but who is not the primary physical aggressor. If the offender who committed the felonious assault is not the primary physical aggressor, the officer is not required to arrest that offender or any other person who committed an offense during the incident but may arrest any of them pursuant to section 2935.03 of the Revised Code and detain them pursuant to that section until a warrant can be obtained.

(b) If the officer determines that there are reasonable grounds to believe that a person, while under the influence of sudden passion or in a sudden fit of rage, either of which is brought on by serious provocation occasioned by the victim that is reasonably sufficient to incite the person into using deadly force, knowingly caused serious physical harm to another or to another's unborn or knowingly caused or attempted to cause physical harm to another or to another's unborn by means of a deadly weapon or dangerous ordnance, then, regardless of whether the victim of the offense was a family or household member of the offender, the officer shall treat the incident as aggravated assault, shall consider the offender to have committed and the victim to have been the victim of aggravated assault, shall consider the offense that was committed to have been aggravated assault in determining the manner in which the offender should be treated, and shall comply with whichever of the following is applicable:

(i) Unless the officer has reasonable cause to believe that, during the incident, the offender who committed the aggravated assault and one or more other persons committed offenses against each other, the officer shall arrest the offender who committed the aggravated assault pursuant to section



2935.03 of the Revised Code and shall detain that offender pursuant to that section until a warrant can be obtained, and the arrest shall be for aggravated assault.

(ii) If the officer has reasonable cause to believe that, during the incident, the offender who committed the aggravated assault and one or more other persons committed offenses against each other, the officer shall determine in accordance with division (B)(3)(d) of section 2935.03 of the Revised Code which of those persons is the primary physical aggressor. If the offender who committed the aggravated assault is the primary physical aggressor, the officer shall arrest that offender for aggravated assault pursuant to section 2935.03 of the Revised Code and shall detain that offender pursuant to that section until a warrant can be obtained, and the officer is not required to arrest but may arrest pursuant to section 2935.03 of the Revised Code any other person who committed an offense but who is not the primary physical aggressor. If the offender who committed the aggravated assault is not the primary physical aggressor, the officer is not required to arrest that offender or any other person who committed an offense during the incident but may arrest any of them pursuant to section 2935.03 of the Revised Code and detain them pursuant to that section until a warrant can be obtained.

(2) Provisions requiring the peace officers who serve the agency, instrumentality, or political subdivision to do all of the following:

(a) Respond without undue delay to a report of an alleged incident of the offense of domestic violence or the offense of violating a protection order;

(b) If the alleged offender has been granted pretrial release from custody on a prior charge of the offense of domestic violence or the offense of violating a protection order and has violated one or more conditions of that pretrial release, document the facts and circumstances of the violation in the report to the law enforcement agency that the peace officer makes pursuant to division (D) of this section;

(c) Separate the victim of the offense of domestic violence or the offense of violating a protection order and the alleged offender, conduct separate interviews with the victim and the alleged offender in separate locations, and take a written statement from the victim that indicates the frequency and severity of any prior incidents of physical abuse of the victim by the alleged offender, the number of



times the victim has called peace officers for assistance, and the disposition of those calls, if known;

(d) Comply with divisions (B)(1) and (B)(3) of section 2935.03 of the Revised Code and with divisions (B), (C), and (D) of this section.

(3) Sanctions to be imposed upon a peace officer who serves the agency, instrumentality, or political subdivision and who fails to comply with any provision in the policy or with division (B)(1) or (B)(3) of section 2935.03 of the Revised Code or division (B), (C), or (D) of this section.

(4) Examples of reasons that a peace officer may consider for not arresting and detaining until a warrant can be obtained a person who allegedly committed the offense of domestic violence or the offense of violating a protection order when it is the preferred course of action in this state that the officer arrest the alleged offender, as described in division (B)(3)(b) of section 2935.03 of the Revised Code.

(B)(1) Nothing in this section or in division (B)(1) or (B)(3) of section 2935.03 of the Revised Code precludes an agency, instrumentality, or political subdivision that is served by any peace officer described in division (B)(1) of section 2935.03 of the Revised Code from including in the policy it adopts under division (A) of this section either of the following types of provisions:

(a) A provision that requires the peace officers who serve it, if they have reasonable grounds to believe that the offense of domestic violence or the offense of violating a protection order has been committed within the limits of the jurisdiction of the agency, instrumentality, or political subdivision and reasonable cause to believe that a particular person committed the offense, to arrest the alleged offender;

(b) A provision that does not require the peace officers who serve it, if they have reasonable grounds to believe that the offense of domestic violence or the offense of violating a protection order has been committed within the limits of the jurisdiction of the agency, instrumentality, or political subdivision and reasonable cause to believe that a particular person committed the offense, to arrest the alleged offender, but that grants the officers less discretion in those circumstances in deciding whether to arrest the alleged offender than peace officers are granted by divisions (B)(1) and (B)(3) of section 2935.03 of the Revised Code.



(2) If an agency, instrumentality, or political subdivision that is served by any peace officer described in division (B)(1) of section 2935.03 of the Revised Code includes in the policy it adopts under division (A) of this section a provision of the type described in division (B)(1)(a) or (b) of this section, the peace officers who serve the agency, instrumentality, or political subdivision shall comply with the provision in making arrests authorized under division (B)(1) of section 2935.03 of the Revised Code.

(C) When a peace officer described in division (B)(1) of section 2935.03 of the Revised Code investigates a report of an alleged incident of the offense of domestic violence or an alleged incident of the offense of violating a protection order, the officer shall do all of the following:

(1) Complete a domestic violence report in accordance with division (D) of this section;

(2) Advise the victim of the availability of a temporary protection order pursuant to section 2919.26 of the Revised Code or a protection order or consent agreement pursuant to section 3113.31 of the Revised Code;

(3) Give the victim the officer's name, the officer's badge number if the officer has a badge and the badge has a number, the report number for the incident if a report number is available at the time of the officer's investigation, a telephone number that the victim can call for information about the case, the telephone number of a domestic violence shelter in the area, and information on any local victim advocate program.

(D) A peace officer who investigates a report of an alleged incident of the offense of domestic violence or an alleged incident of the offense of violating a protection order shall make a written report of the incident whether or not an arrest is made. The report shall document the officer's observations of the victim and the alleged offender, any visible injuries of the victim or alleged offender, any weapons at the scene, the actions of the alleged offender, any statements made by the victim or witnesses, and any other significant facts or circumstances. If the officer does not arrest and detain until a warrant can be obtained a person who allegedly committed the offense of domestic violence or the offense of violating a protection order when it is the preferred course of action in this state pursuant to division (B)(3)(b) of section 2935.03 of the Revised Code that the alleged offender



be arrested, the officer must articulate in the report a clear statement of the officer's reasons for not arresting and detaining that alleged offender until a warrant can be obtained. The officer shall submit the written report to the law enforcement agency to which the officer has been appointed, employed, or elected.

(E) Each agency, instrumentality, or political subdivision that is required to adopt policies and procedures under division (A) of this section shall adopt those policies and procedures in conjunction and consultation with shelters in the community for victims of domestic violence and private organizations, law enforcement agencies, and other public agencies in the community that have expertise in the recognition and handling of domestic violence cases.

(F) To the extent described in and in accordance with section 9.86 or 2744.03 of the Revised Code, a peace officer who arrests an offender for the offense of violating a protection order with respect to a protection order or consent agreement of this state or another state that on its face is valid is immune from liability in a civil action for damages for injury, death, or loss to person or property that allegedly was caused by or related to the arrest.

(G) Each agency, instrumentality, or political subdivision described in division (A) of this section that arrests an offender for an alleged incident of the offense of domestic violence or an alleged incident of the offense of violating a protection order shall consider referring the case to federal authorities for prosecution under 18 U.S.C. 2261 if the incident constitutes a violation of federal law.

(H) As used in this section:

(1) "Another's unborn" has the same meaning as in section 2903.09 of the Revised Code.

(2) "Dangerous ordnance" and "deadly weapon" have the same meanings as in section 2923.11 of the Revised Code.

(3) "The offense of violating a protection order" includes the former offense of violating a protection order or consent agreement or anti-stalking protection order as set forth in section 2919.27 of the Revised Code as it existed prior to the effective date of this amendment.