

**LEGAL MANDATES
AND
PROTOCOL
FOR LAW ENFORCEMENT
IN
MISSING PERSONS CASES**



Promulgated by the

Ohio Peace Officer Training Commission

Pursuant to Jonathan's Law (House Bill 571) of the Ohio General Assembly
Effective April 5, 2007; Updated October 2,
2017

**Ohio Peace Officer Training Commission
Education & Policy Section**

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LEGAL MANDATES AND STATUTE SUMMARY

Since 2007, after passage of Jonathan's Law (HB 571) Ohio law enforcement agencies have been required to have policies and procedures in place regarding missing persons. This document is meant to assist agencies to ensure their policies comply with best practices and Ohio Revised Code. Although Jonathan's Law focuses on missing persons who are eighteen (18) years of age and older, this guide also contains information regarding statutory requirements of law enforcement agencies responding to reports of missing children.

This protocol is intended for use as a reference and the Model Policy for missing adults is intended for use as a resource in the mandated development of the agency's own policies and procedures. Special attention should be paid to the requirements for posting case information into the National Crime Information Center (NCIC) database.

Definition of Missing Child: A missing child is defined in ORC 2901.30 as either of the following:

- A minor who has run away from or who otherwise is missing from the home of, or the care, custody, and control of, the minor's parents, parent who is the residential parent and legal custodian, guardian, legal custodian, or other person having responsibility for the care of the minor; or
- A minor who is missing and about whom there is reason to believe the minor could be the victim of kidnapping, abduction, unlawful restraint, or interference with custody.

Definition of Missing Person: A missing person is defined in ORC 2901.41 as an individual who is eighteen years of age or older who is a temporary or permanent resident of Ohio and meets one of the following characteristics:

- The individual has a physical or mental disability;
- The individual is missing under circumstances indicating their safety may be in danger; or
- The individual is missing under circumstances indicating the disappearance was not voluntary.

The action required by ORC 2901.42 when a law enforcement agency receives a report of a missing person is determined based upon the age of the missing person and whether or not foul play and suspicious circumstances exist.

Missing Child Under 18

Pursuant to ORC 2901.30, the following actions must be taken in the case of a missing child who is under eighteen (18) years of age:

- A report must be taken and the information contained in the initial report must be entered into National Crime Information Center (NCIC) immediately.
- Upon taking the report, the law enforcement agency shall take prompt action upon it, including, but not limited to, concerted efforts to locate the missing child.
- If additional information is received regarding the child listed in the report, that information must be promptly entered into NCIC.
- The law enforcement agency shall promptly notify the missing child's parents, parent who is the residential parent and legal custodian, guardian, or legal custodian, or any other person responsible for the care of the missing child, that the child's information was entered into NCIC.

Missing Persons Over 18, but Under 21

Pursuant to ORC 2901.42(A), the following actions must be taken in the case of missing persons who are at least eighteen (18) but less than twenty-one (21) years of age:

- A report must be taken and the information contained in the initial report must be entered into NCIC immediately.
- If additional information is received regarding the individual listed in the report, that information must be entered into NCIC immediately.

Missing Persons 21 and Older

Pursuant to ORC 2901.42(B), the following actions must be taken in the case of missing persons who are twenty-one (21) years of age and older:

- If foul play is suspected, the information contained in the report must be entered into NCIC within seven (7) days.
- If no foul play is suspected and the subject has not returned, the information contained in the report must be entered into NCIC within thirty (30) days.
- If no foul play was indicated initially but evidence of such becomes known to the agency before the end of the seven day period, the information contained in the report must be entered into NCIC before the end of that seven (7) day period.
- If no foul play was indicated initially but evidence of such becomes known to the agency after the seven day period, the information contained in the report must be entered into NCIC within forty-eight (48) hours.

Foul Play

As listed in section 2901.42 of the Ohio Revised Code, indications of foul play may include but are not limited to:

- A persons' car or home being in disarray;
- Evidence of a struggle between the missing person and another individual(s); or
- Evidence a law enforcement agency determines to be foul play through the written policy adopted by the agency.

OHIO ALERTS SYSTEM

A missing person or missing child case that meets statutory requirements can prompt the activation of a statewide alert. The alerts are defined in detail in this protocol. When an alert code is entered into NCIC, the Ohio Bureau of Criminal Investigation (BCI) Radio Room and Ohio State Highway Patrol will be notified automatically. The National Center for Missing and Exploited Children (NCMEC) and the Federal Bureau of Investigation are also notified when an Amber Alert code is entered into NCIC. The Ohio Bureau of Criminal Investigations' Missing Persons Unit or the Ohio State Highway Patrol will contact the entering agency to confirm the request and that the circumstances meet the criteria for the alert.

AMBER Alert

The program shall be a coordinated effort among the governor's office, the department of public safety, the attorney general, law enforcement agencies, the state's public and commercial television and radio broadcasters, and other agencies. During an AMBER Alert, an urgent news bulletin is broadcast over the airwaves, highway alert signs, and a variety of other notification systems to enlist the aid of the public in finding an abducted child and stopping a perpetrator.

Pursuant to ORC 5502.52(B), the following criteria must be met to initiate an AMBER Alert:

- The local investigating law enforcement agency confirms that an abduction has occurred;
- The abducted child is under eighteen years of age;
- The abduction poses a credible threat of immediate danger of serious bodily harm or death to a child;
- A law enforcement agency determines that the child is not a runaway and has not been abducted as a result of a child custody dispute, unless the dispute poses a credible threat of immediate danger of serious bodily harm or death to the child; and
- There is sufficient descriptive information about the child, the abductor, and the circumstances surrounding the abduction to indicate that activation of the alert will help locate the child.

NOTE: When a missing person has been located, the reporting agency shall promptly remove all information from NCIC. If the individual is located deceased, coordinate the notification of next of kin before removing the entry from NCIC and before canceling the AMBER Alert.

Endangered Missing Child Alert

The Endangered Missing Child Alert was created for missing children cases where the circumstances do not meet the statutory mandates for an AMBER Alert, but the child is still considered at risk if not found quickly. Although the criteria for this alert are not codified in the ORC, the following criteria are recommended to initiate the Endangered Missing Child Alert:

- Law enforcement confirms the child is under eighteen years of age;
- Law enforcement believes the child's life is considered at risk of serious bodily harm or death; and
- There is sufficient descriptive information about the child, the suspect, and/or the circumstances surrounding the disappearance to believe that activation of the alert will help locate the child.

NOTE: When a missing person has been located, the reporting agency shall promptly remove all information from NCIC. If the individual is located deceased, coordinate the notification of next of kin before removing the entry from NCIC and before canceling the Endangered Missing Child Alert.

Missing Adult Alert

If the person has a mental impairment or is 65 years of age or older, a Missing Adult Alert may be issued.

Pursuant to ORC 5502.522(B), the following criteria must be met to initiate a Missing Adult Alert:

- The local investigating law enforcement agency confirms that the individual is missing;
- The individual is sixty-five years of age or older or has a mental impairment;
- The disappearance of the individual poses a credible threat of immediate danger of serious bodily harm or death to the individual; and
- There is sufficient descriptive information about the individual and the circumstances surrounding the individual's disappearance to indicate that activation of the alert will help locate the individual.

NOTE: When a missing person has been located, the reporting agency shall promptly remove all information from NCIC. If the individual is located deceased, coordinate the notification of next of kin before removing the entry from NCIC and before canceling the Missing Adult Alert.

Blue Alert

The Ohio Blue Alert is a notification system for the rapid dissemination of information to speed the apprehension of persons suspected of killing or seriously injuring law enforcement officers and to aid in the location of missing law enforcement officers.

Pursuant to ORC 5502.53, the following criteria must be met to initiate an Ohio Blue Alert:

- A local law enforcement agency confirms that a law enforcement officer has been seriously injured or killed, and a suspect has not been apprehended, or that a law enforcement officer is missing while on duty under circumstances warranting concern for the law enforcement officer's safety; and
- There is sufficient descriptive information about the suspect or the circumstances surrounding a law enforcement officer's injury, death, or disappearance to indicate that activation of the alert may help locate a suspect or a missing law enforcement officer.

NOTE: When a missing law enforcement officer has been located, the reporting agency shall promptly remove all information from NCIC. If the individual is located deceased, coordinate the notification of next of kin before removing the entry from NCIC and before canceling the Blue Alert.

DNA COLLECTION

When a person is missing as defined in ORC 2901.41 and has been continuously absent from their domicile for a thirty-day or longer period of time, or where foul play is suspected, DNA standards may be submitted to the Ohio Bureau of Criminal Investigation for comparison to unidentified human remains as directed under ORC 109.573.

Similarly, if a coroner is unable to identify the body or remains of a deceased person within 30 days, the coroner **shall** notify BCI regarding the remains and forward a DNA specimen from the body or remains for comparison pursuant to ORC 313.08.

Any questions regarding the submission of DNA can be directed to the BCI Missing Persons Unit at (855) BCI-OHIO or OhioMCCH@OhioAttorneyGeneral.gov.

PHOTOGRAPHS

Current photographs are key to the recovery of missing children and adults. Some resources available to law enforcement are limited to missing persons and children entries that have current descriptive information and photographs available. Photographs can be uploaded directly into NCIC.

For additional training information regarding uploading photographs to NCIC contact the BCI Missing Persons Unit at (855) BCI-OHIO or OhioMCCH@OhioAttorneyGeneral.gov.

In June 2017, the Ohio Attorney General's Office issued an opinion to the Ohio Department of Job and Family Services, in regards to furnishing photographs of missing children to local law enforcement agencies. The opinion states "that a county public children services agency that files a missing child report pursuant to R.C. 5153.16(A)(23) has a mandatory duty under Ohio

Admin. Code 5101:2-33-21(G)(1) (2016-2017 Supplement) to furnish a photograph of the missing child to the local law enforcement agency responsible for investigating the report when the photograph is determined to be relevant to the investigation and is either contained in the statewide automated child welfare information system established by the Ohio Department of Job and Family Services pursuant to R.C. 5101.13 or taken or maintained by the public children services agency as part of its "assessment/investigation and ... provision of social services to families and children."

OHIO MISSING CHILDREN'S CLEARINGHOUSE

The Ohio Missing Children Clearinghouse is the official Internet source for Ohio Missing Children information for law enforcement. The application is a critical missing child response program that utilizes the resources of law enforcement agencies and media to notify the public when children are abducted and endangered. The MCCH application is available to all law enforcement personnel that have access to the Ohio Law Enforcement Gateway (OHLEG).

H.R. 4980

The Preventing Sex Trafficking and Strengthening Families Act was signed by President Obama on September 29, 2014. Generally, the law pertains to Child Sex Trafficking, but a portion of the law requires social services to report children missing from foster care to law enforcement and to the National Center for Missing and Exploited Children.

42 USC 671 states that state child welfare agencies must immediately report information on missing or abducted children or youth to law enforcement authorities for entry into NCIC and to NCMEC.

BEST PRACTICES PROTOCOL FOR LAW ENFORCEMENT

MODEL POLICY

This Model Policy is intended for use as a resource in the mandated development of an agency's own policy and procedure. Special attention should be paid to the requirements for posting case information into the National Crime Information Center (NCIC) database.

-MODEL POLICY-

Missing Persons Over 18

| | |
|--------------------------------|--|
| SUBJECT: Missing Persons | PAGE 9 OF 14 DIRECTIVE NUMBER: #.# |
| AUTHORITY: | ORIGINAL ISSUE DATE: |
| ADMINISTRATIVE CLASSIFICATION: | SUPERSEDES: |
| RELATED REFERENCES: | EFFECTIVE DATE: |
| RELATED FORMS: | APPROVED: |

I. POLICY

The (insert agency name here) has established the following policy regarding the handling and investigation of missing person reports. This is in addition to the policy and procedures already in place for missing children reports.

II. DEFINITIONS

Missing Person: A missing person is defined in ORC 2901.41 as an individual who is eighteen years of age or older, who is a temporary or permanent resident of Ohio, and meets one of the following characteristics:

- The individual has a physical or mental disability;
- The individual is missing under circumstances indicating their safety may be in danger; or
- The individual is missing under circumstances indicating the disappearance was not voluntary.

Foul Play: As listed in section 2901.42 of the Ohio Revised Code, indications of foul play include, but are not limited to, evidence that the person's home or car is in disarray, evidence of a struggle between the person and another person, or evidence a law enforcement agency determines to be foul play through the written policy the law enforcement agency develops and adopts.

III. PROCEDURES

A. Initial Inquiry

When someone wishes to file a missing person report, the representative from this agency taking the report will endeavor to check and ascertain the following:

- Is the case a missing person case or could it be another situation? (Some factors for the officer to consider when making this decision are the missing persons' age, mental, physical, and emotional well-being as well as family and social environment.)

- Is foul play or other type of criminal activity suspected?
- Could the missing person be at risk?
- Is a current description and photograph of the missing person available?
- What steps can the agency representative completing the report take to attempt to locate the missing person?
- What other outside assistance, if any, might be needed?
- If applicable, has all necessary paperwork been completed and DNA standard and dental records been obtained?

B. National Crime Information Center (NCIC) Entry

Based upon the results of the inquiries above, the agency representative will take the necessary steps as outlined by statute to enter the information into the National Crime Information Center (NCIC). The NCIC entry required by this agency, and mandated by ORC 2901.42, is determined based upon the age of the missing person and whether or not foul play and suspicious circumstances exist.

The following actions must be taken in the case of missing persons who are at least eighteen (18) but less than twenty-one (21) years of age:

- A report must be taken and the information contained in the initial report must be entered into NCIC immediately.
- If additional information is received regarding the individual listed in the report, that information must be entered into NCIC immediately.

The following actions must be taken in the case of missing persons who are twenty-one (21) years of age and older:

- If foul play is suspected, the information contained in the report should be entered into NCIC as soon as possible, but must be entered within seven (7) days.
- If no foul play is suspected and the subject has not returned, the information contained in the report must be entered into NCIC within thirty (30) days.
- If no foul play was indicated initially but evidence of such becomes known to the agency before the end of the seven day period, the information contained in the report must be entered into NCIC before the end of that seven (7) day period.
- If no foul play was indicated initially but evidence of such becomes known to the agency after the seven day period, the information contained in the report must be entered into NCIC within forty eight (48) hours.

C. Agency Response

All reports of missing persons shall be investigated by proper agency personnel. Investigative steps deemed appropriate by the agency representative shall be taken to locate the missing person. These steps may include, but not be limited to; checking local hospitals, bars, casinos, and detention facilities; interviewing missing persons' neighbors and relatives to identify known companions or associates; consider technology used by the missing person that may be used, through proper legal process, to locate the individual. (IE: cell phone, in-car technology, etc.)

When a person is missing as defined in ORC 2901.41 and has been continuously absent from their domicile for a thirty-day or longer period of time, or where foul play is suspected, DNA standards may be submitted to the Ohio Bureau of Criminal Investigation for comparison to unidentified human remains as directed under ORC 109.573.

- DNA sample types accepted by the Ohio Bureau of Criminal Investigation (BCI) for missing persons include standards in CODIS, personal items such as a toothbrush or baby teeth, or family reference samples. If submitting family reference samples, try to identify and submit samples from more than one family member. A consent form must be completed for each family reference sample. Contact BCI's missing persons unit for the necessary paperwork for submission.

If the person has a mental impairment or is 65 years of age or older, a Missing Adult Alert may be issued as directed under ORC 5502.522. The following criteria must be met to initiate the Missing Adult Alert:

- The agency representative confirms that the individual is missing;
- The individual is sixty-five years of age or older or has a mental impairment;
- The disappearance of the individual poses a credible threat of immediate danger of serious bodily harm or death to the individual; and
- There is sufficient descriptive information about the individual and the circumstances surrounding the individual's disappearance to indicate that activation of the alert will help locate the individual.

Follow the subsequent procedure for activating the Missing Adult Alert:

- Enter the missing individual into NCIC/LEADS using the "EME or "EMI" code in the MKE field *and* the "SA" code in the MNP field. Attach a current photo of the missing person to the NCIC/LEADS entry.
- BCI's Radio Room and Ohio State Highway Patrol will be notified automatically. BCI's Missing Persons Unit will contact the agency to confirm the request and to facilitate the activation of the alert.
- The agency representative will confirm with the BCI Missing Persons Unit what resources should be activated based on the circumstances. Available resources include, but are not limited to; media and public notification, activation of Ohio Department of Transportation electronic signage and/or license plate readers, and

BCI investigative support upon request.

D. Recovery of Missing Person

When a missing person has been located, the appropriate agency personnel shall verify the identity of the recovered individual, promptly remove all information from NCIC/LEADS, cancel all activated alerts, and complete any reports required by the agency. If the individual is located deceased, coordinate the notification of next of kin before removing the entry from NCIC/LEADS and before canceling any activated alerts.

IV. APPENDIX

Appended to this policy is the **National Crime Information Center (NCIC) Data Collection Entry Guide**. The objective of the attached guide, disseminated by NCIC, is to facilitate the entry of missing persons information into NCIC as required by ORC 2901.42.

Also attached is the **National Center for Missing and Exploited Children (NCMEC) Model Policy for Law Enforcement**. The policy is a guide for law enforcement for the investigation of a missing child case as defined in ORC 2901.30.

INVESTIGATIVE RESOURCES

The agency representative taking the missing person report should also consider other investigative resources that may be required in the case. These would include but are not limited to:

BCI Missing Person's Unit

Phone: 1-855-BCI-OHIO

Website: www.ohioattorneygeneral.gov/missingpersons

Criminal Intelligence Analysts, Special Agents, DNA Forensic Scientists, and Victim Advocates

CART: Child Abduction Response Team

Phone: 1-855-BCI-OHIO

OHLEG: Missing Children's Clearinghouse

Phone: 1-866-406-4534

Website: www.ohleg.org

NCMEC: National Center for Missing and Exploited Children

Phone: 1-800-THE-LOST

Website: www.missingkids.com

A Child is Missing

Phone: 1-888-875-2246

Website: www.achildismissing.org

NamUs: National Missing and Unidentified Persons System

Phone: 855-626-7600

Website: www.namus.gov

Alzheimer's Association

Phone: 1-800-272-3900

Website: www.alz.org

Project Lifesaver

Phone: 1-877-580-LIFE

Website: www.projectlifesaver.org

VICAP: Violent Criminal Apprehension Program

Website: www.fbi.gov/wanted/vicap

Local Coroner's Office

OHIO ATTORNEY GENERAL'S OFFICE
CONTACT INFORMATION

Ohio Attorney General
30 East Broad Street, 17th Floor
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Bureau of Criminal Investigation and Identification
1560 State Route 56 SW
London, Ohio 43140
(855) BCI-OHIO

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