

## 12.425 REPORTING AND CLASSIFYING BREAKING AND ENTERING OFFENSES

### **Reference:**

Procedure 12.400 – Incident and Miscellaneous Reporting  
Ohio Revised Code 2911.11 – Aggravated Burglary  
Ohio Revised Code 2911.12 – Burglary  
Ohio Revised Code 2911.13 – Breaking and Entering  
Ohio Incident Based Reporting Manual

### **Purpose:**

Establish uniform policy for classifying Breaking and Entering type offenses.

### **Procedure:**

#### A. Reporting Statutory Offenses:

1. Complete a Form 301, Incident Report, for incidents or attempts of, Aggravated Burglary, Burglary and Breaking and Entering.
2. If the elements of a specific Ohio Revised Code (ORC) statutory crime are present, the offense report will be titled under that specific section.
3. A trespass is one of the elements necessary to establish Aggravated Burglary, Burglary, or Breaking and Entering.

- a. A trespass in a structure can occur even in public places, such as a government building or a department store.

Example: A customer enters an area where he is not permitted access, such as a room marked "Employees Only," or knowingly goes from a public office into the private office area.

- b. The following incidents will be reported as theft offenses rather than Breaking and Entering offenses:
  - 1) Suspect reaches over the bar or counter (restricted area) and steals some object of value.
  - 2) Suspect walks behind the counter or display case in a store (restricted area) and steals an object of value.

- a) If a subject's purpose is to commit a theft offense or any felony while trespassing in a structure, he has committed one of the Breaking and Entering offenses.
  - b) Purpose to commit a theft offense is obviously present when an item is taken. Evidence of this purpose must be presumed when certain facts are present: cash register pried open, petty cash box broken into (even though nothing of value was contained therein), property is moved to exit door, etc.
4. If a subject trespasses on the land or premises (not a structure) of another with the purpose to commit a felony, he has committed a Breaking and Entering (ORC 2911.13 (B)). Should his purpose be to commit a crime other than a felony, it should be reported as the crime committed and not a Breaking and Entering offense.
- a. Trespass on the lands or premises of another occurs when the subject knowingly enters an area that he does not have the privilege to enter.
    - 1) For the purpose of reporting Breaking and Entering offenses, a trespass on the lands or premises of another will be presumed if:
      - a) The land or premises is posted sufficiently to give adequate notice that entry is restricted.
      - b) Subject is advised by a person with authority to depart, and he refuses to do so.
      - c) The area is enclosed with the primary purposes of keeping trespassers out and that purpose is apparent to an ordinary person; and entry is made to the area without privilege to do so (chain link or other type fence topped with barbed wire, chain link or other type fence 8' high as opposed to 4' high).
  - b. If the area involved is a common area used by joint tenants: basement/laundry room of multi-dwelling, or a private garage serving several business places, a trespass will not be considered present unless it can be substantiated by a witness who observed an unauthorized person trespassing, or evidence of forcible entry into the common area is present.

- 1) If a storage room or storage bin is connected to the common area but is separately secured and assigned for the specific use of a particular occupant, an unprivileged entry will not be considered a trespass; therefore considered a theft.
  - c. When an offense occurs in a structure, evidence of forcible entry is not present, and a suspect or suspects exist who have legitimate access to the area, it will be treated as if a trespass has not occurred. These facts must be included on the offense report.
  - d. An unprivileged entry into a vacant structure, a vacant structure being renovated, a detached garage, even though not locked or secured, or with closed doors or closed windows, will be treated as if a trespass has occurred.
5. When a definite hour of commission of the offense is unknown, be specific when reporting time interval of occurrence.
  6. If further investigation establishes a definite hour of occurrence, a correction to the Form 301 will be completed as outlined in Procedure 12.400, Incident and Miscellaneous Reporting.