

"Keep Orlando a safe city by reducing crime and maintaining livable neighborhoods."

ORLANDO POLICE DEPARTMENT POLICY AND PROCEDURE

1105.1, CIVIL PROPERTY DISPUTES

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RELATED POLICIES:	N/A
CHIEF OF POLICE:	ERIC D. SMITH

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1. PURPOSE

This policy provides guidelines for all sworn members who are called to stand by in civil property disputes, domestic, and commercial.

2. POLICY

It is the policy of the Orlando Police Department to respond when needed to stand by and keep the peace in matters concerning the retrieval or distribution of property in domestic and commercial settings. Recognizing that some persons may feel intimidated by the mere presence of a law enforcement officer, it is the Department's policy that all members avoid the appearance of lending their color of authority to resolve civil property disputes between citizens.

3. DEFINITIONS

N/A

4. PROCEDURES

4.1 DOMESTIC PROPERTY DISPUTES

Officers are often called to stand by while citizens retrieve property from their former residences. These calls run the gamut from former roommates to spouses undergoing a divorce. These calls frequently involve situations where violence between the parties has led to a split, whether voluntary or court-ordered. Officers should assume the situation could become volatile. Adherence to officer safety practices, as in any other domestic disturbance, is expected.

In handling these calls, the officer should follow these guidelines:

- a. The officer must advise the parties that the officer is there to keep the peace and is not there to resolve property disputes in favor of any party.
- b. The officer should obtain a summary of the facts from the persons involved and evaluate the information for possible criminal allegations.
- c. In the case of an injunction or other court order, the citizen shall be permitted to retrieve only that property specified in the court document.
- d. In the absence of an injunction or court order, a citizen may be permitted to retrieve personal clothing, toiletries, and medications. If the citizen has physical custody of children from the household, the citizen may also be permitted to retrieve the children's clothing, toys, toiletries, and medications. The officer cannot override the objections of a party in possession of the premises and property. If there is an objection by the person in possession, the parties should seek a civil remedy.
- e. If all parties to the dispute are present, the citizen may retrieve such other property as the parties may mutually agree upon. The parties must be advised by the officer that the person in possession of such property has the right to object. If the parties cannot agree, officers must advise the parties that the status quo of the property should be maintained, and the parties should seek relief in a proper forum (i.e. court order, Citizens Dispute Settlement Program, small claims court, etc.). If all parties to the dispute are not present, the officer may stand by until all parties are present (up to 30 minutes, if other duties permit, or longer with supervisory approval). If a delay is involved, the officer may ask to be called back when all parties are present. The officer shall not take any action which might be construed as favoring one person's rights over another's. It is not the intent of this policy that officers provide stand by assistance while an entire household full of property is divided.
- f. The officer shall not allow any citizen to break into a residence or domicile. No officer shall advise parties that they may break into a residence or domicile. No officer will actively engage in repossession or execution of liens.
- g. If the officer has questions with regard to whether the matter is civil or criminal in nature, the officer should contact the Police Legal Advisor.
- h. Officers shall not forego officer safety to assist the caller with moving items. If asked, the officer will explain to the caller that law enforcement's role and priority is to keep everyone safe, a task that requires the officer's full attention.
- i. Prior to departing the scene, officers shall inform the caller that they will be departing AND that it is in their best interest to leave as well. Officers shall obtain verbal confirmation of that understanding from the caller prior to departure. Officers shall capture the caller's verbal confirmation of law enforcement's imminent departure on body-worn camera.

4.2 CIVIL PROPERTY DISPUTES

Occasionally, an officer will be called out to stand by in cases concerning civil property disputes involving employees, merchants, landlord/tenant evictions, and others engaged in commercial business. For these types of calls, the officer should adhere to the following guidelines:

- a. The officer must advise all parties present that the officer is there only to keep the peace and is not there to resolve property disputes in favor of any party.
- b. The officer should obtain a summary of the facts from the person(s) involved and evaluate the information for possible criminal allegations.
- c. If no criminal charges are warranted, and the parties are still in dispute, the officer should wait until all parties to the dispute are present, (up to 30 minutes if other duties permit or longer with supervisory approval). If all parties are not present, the parties present must be advised that the status quo of the property should be maintained until all parties can be present. If a significant delay is involved, the parties will be advised to call OPD back once all parties are on the scene.
- d. If no criminal charges are appropriate and once all parties are present, the officer must explain the following:
 - a. The officer will not intervene in the transfer of property in a civil dispute, determine property rights, or provide legal advice.
 - b. No breach of the peace or other violation of criminal law will be tolerated.
 - c. The person in possession of the property has a right to object to any other person removing the property, absent a court order.
 - d. If an agreement cannot be reached between the parties, the officer must advise the parties that they should maintain the status quo of the property, separate and disperse, and seek relief in a proper forum. The officer may refer the parties to the Citizens Dispute Settlement Program, civil court, etc.
- e. If the officer has questions with regard to whether the matter is civil or criminal in nature, the officer should contact the Police Legal Advisor.
- f. No officer shall actively engage in repossession of property or execution of liens.
- g. The nature of the dispute and the actions taken by the party and the officer should be documented in an incident report.

5. FORMS AND APPENDICES

N/A