

Anchorage Police Department Regulations and Procedures Manual	Operational Procedures 3.01.075	
Policy and Procedure Title Civil Issues	Effective Date November 10, 2021	Page 1 of 4
Replaces Prior Policy: August 16, 2021	Approved by: Chief Ken McCoy	

This policy is the internal use only and does not enlarge an employee's civil liability in any way. The policy should not be construed as creating a higher duty of care, in an evidentiary sense, with respect to third party civil claims against employees. A violation of this policy, if proven, can only form the basis of a complaint by this department for non-judicial administrative action in accordance with the laws governing employee discipline.

3.01.075 Civil Issues

PURPOSE

To advise all personnel of their responsibilities and limitations when requested to assist in civil matters.

POLICY

When confronted with civil problems employees will remain neutral in their attitudes and acts, but take all reasonable steps to preserve public tranquility, ensure safety, and assist the parties in the possible resolution of the conflict.

DEFINITIONS

Civil: In this procedure, the term "civil" refers to those matters affecting the private rights of individuals and businesses, and the processes which protect and adjudicate those issues. This can be contrasted with other bodies of law, most notably "criminal." Civil sanctions include fines and forfeiture of property, but specifically exclude the criminal sanctions of imprisonment and/or record(s) of conviction.

PROCEDURE

I. IDENTIFICATION OF CIVIL ISSUES

- A. **Criminal Statutes Prevail.** The first test in establishing whether an issue is civil, or criminal is to determine if the act(s) is/are covered by criminal law. If so, it shall be handled as a criminal matter.
- B. **Civil and Criminal Mixes.** A complex scenario can include both civil and criminal issues. Officers must be alert to this possibility and be careful in the assessment of what police action to take.

- C. **Escalation.** Civil matters can escalate to criminal. Again, officers must be alert to this possibility and distinguish between the various and complex issues surrounding the event.
- D. **Civil Orders.** Legitimate civil court documents specifying the Anchorage Police Department as the enforcement agency shall be enforced. The Judicial Services branch of the Alaska State Troopers enforces all other civil court documents, including those addressed “to any peace officer”.

II. TYPES OF CIVIL ISSUES

- A. **Most Common Types of Civil Issues.** Officers will routinely be faced with the following types of civil calls:
 - 1. Domestic Violence Writs are a special restraining order authorized by the court. Securing such a Writ is done civilly, but breach of the provisions is considered criminal.
 - 2. Civil Standbys are requested by people who have to conduct business with a person and are concerned that control might be lost and criminal conduct (assault, vandalism, etc.) might occur if the police are not present. Civil standbys are the most common type of civil problem encountered, and the material discussed in this procedure should guide officers.
 - 3. Property repossession by a creditor is a purely civil matter, and the role of officers is normally limited to that of a civil standby. Recall that civil documents are typically enforced by the Judicial Services branch of the Alaska State Troopers unless the document specifically addresses the Anchorage Police Department. Officers should honor legitimate court documents, which entitle a party to specified property or actions. Since police are rarely trained in recognizing and interpreting civil documents (other than a few specific ones, such as Domestic Violence Writs), it is often difficult to decide what action to take. When confronted with an unfamiliar or questionable civil document, a Supervisor should be called to assist in interpreting that document and investigating its veracity. If the document is valid, officers are obligated to take whatever action is appropriate to enforce the civil court order.
 - 4. Impounds are civil in nature, including private person impounds, and require the police only to preserve the peace. More information on impounds can be found in the procedure "Towing—Vehicle Impounds 3.03.010".
 - 5. Legitimate gathering of signatures for petitions on private property. The United States Supreme Court has ruled that under some circumstances, people may not be excluded from soliciting signatures

in a peaceful manner for initiative petitions on private property. APD will not arrest for trespass or remove people from private property unless the property owners have obtained a court order from the Superior Court.

III. RESPONSIBILITIES IN CIVIL ISSUES

- A. **Preservation of Peace and Protection of Property.** Officers shall take all reasonable steps to preserve the public peace and protect property.
- B. **Neutrality.** Officers shall maintain a neutral position to the civil issues.
- C. **Use Least Intrusive Approach.** In handling civil issues, officers should first consider the least intrusive approach.
 - 1. "Freezing" the situation (i.e., preserving the status quo) obligates the parties involved to seek legal authority to take any further action, and is often the best course to take. This relieves officers from having to arbitrarily decide who gets what; however,
 - 2. If there is clear evidence to show legal entitlement (based on the best information available to officers in the field), officers must honor the legal rights of the parties involved. This can mean not "freezing the situation" as recommended above, but instead taking affirmative action on behalf of the entitled party. However, civil standbys for the purpose of bill collection shall not be conducted, regardless of proof of entitlement.
- D. **Time of Day Considerations.** Employees must weigh the urgency of the issue against the inconvenience imposed on the parties. Middle-of-the-night interruptions may not be warranted, for instance, if the objective is retrieval of non-essential items. In most cases, officers should defer any request for a civil standby between the hours of 10:00 p.m. and 7:00 a.m. to a supervisor for approval.
- E. **Duration of Call.** Officers can incur substantial out-of-service time in resolving a civil problem if reasonable restraints and limits are not imposed. In general, if the call appears to require more than 30 minutes, a Supervisor should be advised.
- F. **Rendering Assistance to the Parties.** A neutral position, and a position of minimum intrusion, does not preclude officers from assisting in the resolution of the conflict. Referral to appropriate agencies, explaining the processes involved, and offering information and suggestions does not necessarily compromise neutrality, and indeed is a service usually sought and expected by the public.

IV. "FAILURE TO RETURN" VEHICLES

A. A vehicle theft report will not be taken under the following circumstances:

1. The person who took the vehicle was given permission by the registered owner to use the vehicle; or
2. The person who took the vehicle is known to the complainant (e.g., an estranged or angry partner or intoxicated or irresponsible friend or other acquaintance) and that person regularly uses the vehicle; or
3. The person to whom the vehicle was loaned failed to return the vehicle.

B. A vehicle theft report may be filed under the following circumstances:

1. The vehicle was taken by a person unknown to the complainant; or
2. The vehicle was taken by a person known to the complainant, but who had no reasonable expectation to believe that permission was granted to use the vehicle; or
3. A vehicle has not been returned in violation of a written contract, and seven (7) days have elapsed since the specified return date of that vehicle; or
4. A vehicle that was lent to, borrowed, or otherwise taken by a person known to the complainant has not been returned, and seven (7) days have elapsed since the specified return date of that vehicle; or
5. A vehicle was taken on a test drive from an auto dealership or from a private party and has not been returned by the end of the business day.
6. Whenever there is doubt as to the status of a vehicle that has not been returned to an owner and a reasonable determination cannot be made, the vehicle shall be classified as stolen.
7. Vehicles classified as "failure to return" shall not be broadcasted as "vehicle locates" for officers, except in those cases where the public may be endangered by the actions or condition of the drivers involved.

*****END OF DOCUMENT*****