

MESA POLICE Department Policy Manual	Civil Incidents	DPM 2.8.55 Effective 04/25/2012
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1. PURPOSE

This policy provides Mesa Police Department (MPD) officers with guidelines for responding to and handling civil incidents.

2. CIVIL MATTERS

2.1 General

- A. When receiving a complaint considered to be a civil matter, with the exception of Civil Court Orders, inform the complainant that it is to be referred to a private attorney.
- B. Do not refer complaints of a civil nature to the City or County Attorney's office.

2.2 Civil Incident Procedures

- A. In civil incidents, **do not** act in a manner which benefits any of the parties involved.
- B. If a standby and keep the peace situation is requested, talk with the requesting person in the field prior to going to the premises to find out what their intentions are.
- C. Explain to those involved that the police are there **to keep the peace** and any violation in your presence could result in an arrest of **either** of the people involved.
- D. If the intention of the person is to enter a residence, explain it is a violation to break in or do any damage if entry is refused.

2.3 Civil Disturbances

- A. Exercise extreme care that nothing is done, either by action or conversation, that might be construed as taking sides.
- B. Remember that it is the police responsibility to preserve the peace, protect life and property, and suppress criminal acts. Attempt to prevent or abate any breach of peace or criminal conduct.
- C. In areas where bystanders can become a problem, conduct business (e.g.; arrests, interviews, etc.) as quickly as possible and clear the area.
- D. Use red lights, siren, and high speed only when necessary.

3. LANDLORD TENANT DISPUTES

3.1 General

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- A. Under the Landlord Tenant Act (ARS Title 33) disputes between a renter and a landlord are civil in nature.
 1. A landlord may not lock out a residential tenant for non-payment of rent without a valid court order.
 2. Hotels, motels, and innkeepers may utilize such techniques as lock-out, seizure of personal property, etc. for non-payment of rent.
 3. A landlord may take the personal property of a commercial tenant for non-payment of rent that is not exempt by law.
 4. A landlord cannot seize tools nor any item used by a commercial tenant to earn a living for non-payment of rent or health/welfare items (e.g.; prescription medicines, needs of a child, etc.).
- B. If violations are observed, **take no enforcement action unless criminal intent is present.**
 1. In cases where a tenant and/or landlord has damaged property (i.e.; a tenant breaking into an apartment to reclaim seized property), take no action at the scene without supervisor approval.
 2. If criminal intent was present, complete a departmental report (GO) and submit it to the affected prosecutor's office for review.
 3. In cases where only extreme civil actions are involved, complete GO if applicable.
 4. If no action taken and/or civil standby conducted, clear as a DC5 with comments.

4. REPOSSESSION OF PROPERTY

4.1 Authority to Repossess

- A. Institutions (e.g.; banks, credit unions, savings & loans) which lend money on a "time payment" plan to individuals for the purchase of articles (e.g.; furniture, appliances, automobiles, etc.) retain a "security interest" in the article until the loan is fully repaid.
- B. Unless otherwise agreed, if the purchaser does not make payments on the loan when due, the lending institution has the legal right to take possession of the item without court action (i.e.; 'repossession' of collateral).

4.2 Repossession with Judicial Process

- A. Refer representatives or lien holders to a court where they may obtain a court order for repossession or replevin.
- B. A presentative of the court (civil division, sheriff's office, constable's office, etc.) always serves writs of repletion/repossession.
- C. The processing and serving of such writ **in no way constitutes a police obligation** unless a breach of the peace occurs.

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- D. Creditors seeking assistance with Writs of Replevin normally obtain the services of a county sheriff.
- E. However, if an officer is called to the scene of an attempted repossession, **where an appropriate court order has been issued**, the officer may stand-by to prevent a breach of the peace.

4.3 Repossession without Judicial Process

- A. When a party requests a stand-by at a repossession, advise the caller that an officer cannot be present unless the caller has a court order. **The officer's presence without the court order will invalidate the repossession.**
- B. If an officer is called to the scene of an attempted repossession, for whatever reason, including a threat of violence, the repossession cannot go forward absent a court order. **The creditor may no longer seek a peaceful repossession but must obtain the appropriate order** (this order will probably be entitled Writ of Replevin).

4.4 Complaint by Buyer

- A. If a purchaser under a conditional contract complains that an attempt is being made to steal an automobile or other collateral, this would constitute a breach of the peace, intervene and assist the buy to retain possession. Possession would then have to be retaken by judicial process.
- B. If there is no complaint made and there is no reason to be suspicious under the circumstances, investigate as circumstances dictate. If the automobile or other collateral is being properly repossessed, then do not interfere.