

Civil Disputes

404.1 PURPOSE AND SCOPE

This policy provides Deputies of the Montgomery County Sheriff's Office with guidance for addressing conflicts between persons when no criminal investigation or enforcement action is warranted (e.g., civil matters), with the goal of minimizing any potential for violence or criminal acts.

The Domestic Violence Policy will address specific legal mandates related to domestic violence court orders. References in this policy to "court orders" apply to any order of a court that does not require arrest or enforcement by the terms of the order or by North Carolina law.

404.2 POLICY

The Montgomery County Sheriff's Office recognizes that a law enforcement presence at a civil dispute can play an important role in the peace and safety of the community. Subject to available resources, Deputies of this office will assist at the scene of civil disputes with the primary goal of safeguarding persons and property, preventing criminal activity and maintaining the peace. When handling civil disputes, Deputies will remain impartial, maintain a calm presence, give consideration to all sides and refrain from giving legal or inappropriate advice.

404.3 GENERAL CONSIDERATIONS

When appropriate, Deputies handling a civil dispute should encourage the involved parties to seek the assistance of resolution services or take the matter to the civil courts. Deputies must not become personally involved in disputes and shall at all times remain impartial.

While the following is not intended to be an exhaustive list, Deputies should give considerations to the following when handling civil disputes:

- (a) Civil disputes tend to be confrontational and Deputies should be alert that disputes can escalate to violence very quickly. De-escalation techniques should be used when appropriate.
- (b) Deputies should not dismiss alleged or observed criminal violations as a civil matter and should initiate the appropriate investigation and report when criminal activity is apparent.
- (c) **DEPUTIES SHALL NOT PROVIDE LEGAL ADVICE.** However, when appropriate, Deputies should inform the parties when they are at risk of violating criminal laws.
- (d) Deputies are reminded that they shall not enter a residence or other non-public location without legal authority including valid consent.
- (e) Deputies should not take an unreasonable amount of time assisting in these matters and generally should contact a supervisor if it appears that peacekeeping efforts longer than 30 minutes are warranted.

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404.4 COURT ORDERS

Disputes involving court orders can be complex. Where no mandate exists for a deputy to make an arrest for a violation of a court order, the matter should be addressed by documenting any apparent court order violation in a report. If there appears to be a more immediate need for enforcement action, the investigating deputy should consult a supervisor prior to taking enforcement action.

404.4.1 STANDBY REQUESTS

Deputies responding to a call for standby assistance to retrieve property should make contact with the person requesting assistance, and if necessary meet at a neutral location to discuss the process. The person should be advised that for the sheriff's office to assist them, they must first obtain a court order or pursue other avenues of assistance before we may be able to assist. The deputy may advise the person to seek private legal advice as to the distribution of disputed property.

Deputies, **only pursuant to a court order**, should accompany a person to a specified location for the purpose of picking up property. Deputies should ask if the other party will allow removal of the property or whether the other party would remove the property. If the other party involved refuses to relinquish said property stated in the court order, the plaintiff shall then pursue an order to show cause against the defendant unless some type of enforcement action is specified in the original court order.

Deputies at a dispute that relates to the allegation of domestic violence, and where neither party has a protective order, may take actions reasonably necessary to protect the complainant from harm. Deputies should advise the complainant of resources for shelter, medical care, counseling and other victim services. Deputies may also, yet are not required to, transport the complainant to his/her residence so that the complainant can remove items of food or personal property that are necessary for their survival pending determinations that may be rendered by the court. Care should be exercised regarding the appropriateness of items that will be removed.

If there is a restraining or similar order against the person requesting standby assistance at a prohibited area, that person should be asked to leave the scene or they may be subject to arrest for violation of the order.

If the other party is not present at the location, the deputy will not allow entry into the location or the removal of property from the location.

404.5 VEHICLES AND PERSONAL PROPERTY

Deputies may be faced with disputes regarding possession or ownership of vehicles or other personal property. Deputies may review documents provided by parties or available databases (e.g., vehicle registration), but should be aware that legal possession of vehicles or personal property can be complex. Generally, deputies should not take any enforcement action unless a crime is apparent. The people and the vehicle or personal property involved should be identified and the incident documented in CAD calls for service notes.

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404.6 REAL PROPERTY

Disputes over possession or occupancy of real property (e.g., land, homes, apartments) should generally be handled through a person seeking a court order.