

**8.05**  
**CRAIG POLICE DEPARTMENT**  
**Office of Chief of Police**  
**General Order**

**Date Issued:** May 15, 1997  
**Subject:** Civil Disputes  
**To:** All Officers

**Revision Date:** April 1, 2009  
**Reference:**

**I. POLICY:**

Officers are frequently called to the scene of civil disputes where no crime has been committed. The presence of officers at such scenes is primarily to preserve the peace and to prevent a crime from occurring; it is not to give legal advice. Officers should avoid becoming unnecessarily involved in civil disputes and may advise the parties to seek the advice of legal counsel or, if a city ordinance violation has occurred, the City Attorney's Office.

Unless required by the situation, officers should not encourage a private person to make an arrest; however, should such an arrest be made, officers are required to accept the prisoner, if they believe probable cause exist.

In all cases, it is recommended that the officer attempt to provide a cooling off period by convincing the parties involved that the settlement of such cases falls within the purview of attorneys and civil courts.

**II. PROCEDURE**

**A. Repossessions (general)**

The law provides legal methods whereby a rightful owner may obtain possession of his property by judicial process. This process is known as "replevin" and can be found under CRS 5-5-104, which states in part:

Prior to judgment in an action against the debtor for debt arising from a consumer credit sale, a consumer lease, or a consumer loan, the creditor may not replevin goods, except motor vehicles, of the debtor with the use of force from a dwelling upon an ex parte order of court, or attach unpaid earning of the debtor by garnishment or like proceedings.

Unless performed pursuant to a court order, trespass may not be committed during repossession. Officers should warn parties against an imminent trespass if there is likely to be a breach of the peace. However, if officers are contacted after repossession involving a trespass has occurred, it is usually inappropriate to file criminal charges so long as there was no major breach of the peace or property damage. The parties should be referred to their attorneys to pursue their civil remedies.

The Department shall give assistance to legal authorities who require it in the repossession, to wit: Sheriff, Court, etc, if they request assistance, but will not standby, aid, or anyway assist while private parties attempt to repossess motor vehicles or other property.

## **B. Repossession of Motor Vehicles**

CRS 42-6-146, Repossession of Motor Vehicle - owner must notify law enforcement. (1) If any mortgagee or his assignee or the agent of either repossesses a motor vehicle...the Repossessor shall notify, either verbally or in writing, a law enforcement agency...of the fact of such repossession, the name of the owner, the name of the Repossessor, and the name of the mortgagee or assignee. Such notification shall be made at least one hour before or no later than one hour after the repossession occurs.

## **C. Restraining Orders**

Restraining orders may be issued pursuant to different statutes. For enforcement purposes, it is important that officers keep in mind the distinctions between them:

- 1. Regular Civil Temporary Restraining Orders (TRO)** - These are orders issued pursuant to Rule 365 of Colorado rules of county court civil procedure that usually order a specific person not to do a specific act.
- 2. Restraining Orders to Prevent Domestic Abuse** - These are Temporary Restraining Orders issued pursuant to CRS 14-4-102 to prevent further domestic abuse. A Judge must sign this type of restraining order.
- 3. Emergency Protection Orders** - These are emergency protection orders issued pursuant to CRS 14-4-103. They are issued verbally by a Judge to the requesting peace officer when the county and district courts are otherwise closed for judicial business.

Enforcement of restraining orders is covered under CRS 14-4-104 and 18-6-803.5.

"Restraining order" means any order which prohibits the restrained person from contacting, harassing, injuring, intimidating, molesting, threatening, or touching any person, or from entering or remaining on premises, or from coming within a specified distance of a protected person or premises, which is issued by a court of this state or a municipal court.... A person commits the crime of violation of a restraining order if such person contacts, harasses, injures, intimidates, molests, threatens, or touches any protected person or enters or remains on premises or comes within a specified distance of a protected person or premises, and such conduct is prohibited by a restraining order, after such person has been personally served with any such order or otherwise has acquired from the court actual knowledge of the contents of any such order....

A peace officer shall use every reasonable means to enforce a restraining order, or Domestic Violence TRO. Unless directed otherwise by an attorney from the District Attorney's office, a peace officer shall arrest, or, if an arrest would be impractical under the circumstances, seek a warrant for the arrest of a restrained person when the peace officer has information amounting to probable cause when: the restrained person has committed a bond violation or contacted the victim of a restraining order; and the restrained person has been properly served with a copy of the restraining order or the restrained person has received actual notice of the existence and substance of such order.

#### **D. Landlord-Tenant disputes**

The Department shall not intercede in landlord-tenant disputes relating to problems such as liens, trespass, property damage, and eviction to preserve the peace.

Both sides of the dispute should be heard before deciding upon a course of action. Unless the facts clearly indicate a criminal violation, enforcement action should be avoided. Disputing parties should be referred to their respective attorneys.

#### **E. Property disputes**

When confronted with a property dispute, officers should encourage presentation of both sides of the dispute. If the matter is civil in nature, parties shall be informed the Department cannot and will not participate.

Whenever an officer cannot clearly resolve whether a dispute is or is not civil, he shall assume the matter is civil and proceed accordingly.

#### **F. Bond Revocations**

Officers shall not standby, aid or in any way assist a surety to revoke a bond.

**Approved By:**



**Walter K. Vanatta**  
**Chief of Police**