Civil Disputes

433.1 PURPOSE AND SCOPE

This policy provides members of the Fargo Police Department 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 (310) 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 Dakota law.

433.2 POLICY

The Fargo Police Department 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, members of this department may 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, members shall remain impartial, maintain a calm presence, give consideration to all sides and refrain from giving legal or inappropriate advice.

433.3 GENERAL CONSIDERATIONS

When appropriate, members handling a civil dispute may suggest the involved parties seek the assistance of resolution services, private legal services or take the matter to the civil courts. Members must not become personally involved in disputes and shall at all times remain impartial.

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

(a) Civil disputes tend to be confrontational and members should be alert that they can escalate to violence very quickly. De-escalation techniques should be used when appropriate.

(b) Members 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) Members shall not provide legal advice, however, when appropriate, members should inform the parties when they are at risk of violating criminal laws.

(d) Members are reminded that they shall not enter a residence or other non-public location without legal authority including valid consent.

(e) Members should not take an unreasonable amount of time assisting in these matters and generally should contact a supervisor if it appears that efforts to resolve the dispute peacefully will take an unreasonable amount of time.

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433.4 COURT ORDERS

Disputes involving court orders can be complex. Where no mandate exists for an officer to make an arrest for a violation of a court order, the matter should be addressed by documenting any apparent court order violation in the call notes, unless the violation is criminal in nature, in which case a report shall be filed. If there appears to be a more immediate need for enforcement action, the investigating officer should consult a supervisor prior to making any arrest.

If a criminal report is filed, the investigating officer should document the following in the case report

(a) The person's knowledge of the court order or whether proof of service exists.

(b) Any specific reason or rationale the involved person offers for not complying with the terms of the order.

A copy of the court order should be attached to the report when available. The report should be forwarded to the appropriate prosecutor.

433.4.1 STANDBY REQUESTS

Officers responding to a call for standby assistance to retrieve property should meet the person requesting assistance at a neutral location to discuss the process. The person shall be advised that the officer will standby to ensure the safety of the caller and not to participate or decide ownership of disputed items.

Members should accompany the person to the location of the property. Members should ask if the other party will allow removal of the property or whether the other party will remove and turn over the property to the requester.

If the other party is uncooperative, the person requesting standby assistance may be informed of their option to seek private legal advice and/or obtain a court order to obtain the items. Officers shall not order the other party to allow entry or the removal of any items. If there is a restraining or similar order against the person requesting standby assistance, that person should arrange for a third party to accompany the officer to retrieve undisputed property. The requester shall be advised not to be at the scene or they may be subject to arrest for violation of the order.

If the other party is not present at the location and contact cannot be made to obtain consent to enter, the member shall not further the removal of property from the location, unless the person making the standby request can show sufficient evidence of legal standing to the property.

433.5 VEHICLES AND PERSONAL PROPERTY

Officers may be faced with disputes regarding possession or ownership of vehicles or other personal property. Officers 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, officers 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 either the criminal case report or comments in the call for service as appropriate.

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433.5.1 RENTAL VEHICLES

Generally, rental agreements are civil contracts with civil remedies. The mere fact that a rented vehicle is not returned or payment fails does not, on its own, substantiate the crime of theft. Absent any additional evidence that the renter did something more than fail to return or pay for the vehicle, it shall be considered a civil matter and no criminal report is needed. Evidence that may substantiate a theft includes, but is not limited to, the renter sold, stripped down or modified the vehicle such that there is intent to permanently deprive the rental company of the vehicle or the vehicle was used in the commission of a crime. Officers should confer with a supervisor in the event they are unsure as to whether or not a rental vehicle theft is properly substantiated.

433.6 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.

433.7 REVISION DATE--10/10/2022

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