

# City of Johns Creek Police Department

<i>Subject:</i> Civil Disputes	<i>Number:</i> 02-09	
<i>Reference:</i>	<i>Amends:</i>	
<i>Effective:</i> 04/08	<i>Review Date:</i> Annually	<i># of Pages:</i> 3

## PURPOSE:

Establish guidelines for departmental personnel when responding to incidents or calls which are non-criminal in nature and usually result in no police action.

## DEFINITIONS:

**Civil Dispute:** - Non-violent confrontations between two or more persons which does not involve a breach of the peace or the commission of a criminal act.

## POLICY: (02-09)

Police officers frequently respond to calls and events which may not involve violations of criminal laws. These calls generally are disputes between people who may be acquainted and are unable to reach a practical resolution to a point of controversy. The role of law enforcement officers in these non-criminal, civil disputes is that of an impartial keeper of the peace. The following procedures are intended to ensure the officer handles civil matters in the proper manner.

In all calls of a civil nature, the officer will remain neutral and will not provide either party in the dispute legal advice, nor give their “personal opinions” based on Georgia law or court decisions or orders. Officers shall relegate themselves to keepers of the peace **only**, however he/she may provide referrals to proper agencies, courts.

If the officer encounters an enforceable writ or other order of any court commanding the officer to commit an action, the order or writ shall be obeyed. The officer should ensure he/she is of the proper jurisdiction in the matter of the order or writ, and when in doubt, should consult with his/her supervisor. Most of these are generally handled by the Fulton County Sheriff or the Fulton County Marshal. See also “Legal Process” and “Domestic Violence”.

## PROCEDURES:

### Responding to a Call (02-09-01)

When responding to the scene, the officer will first determine whether it is a civil or

criminal matter. Once the matter has been determined to be civil in nature, the responding officer is to assist the requesting citizen within the scope of his/her official capacity. If it is not within the scope of the officer's capacity, the citizen should be so informed and directed where to receive the type of assistance that he/she is requesting.

### **Stand-By Situations (02-09-02)**

Officers may be requested to stand by to prevent assault or breach of the peace while personal articles such as clothing are being removed. When a stand-by situation occurs on private property, the officer shall remain on public property or the roadway unless he/she is admitted by all occupants or claimants of such property. If there is a violation of the law, the officer can enter into private property to take action. When entry into private property and/or the removal of property is denied by another who is in possession of such property, the following procedures will be implemented:

- A. The officer shall advise the complainant that claims to personal property **will not** be enforced by the Department without an order from the court.
- B. Misdemeanor assaults which occur outside the officer's presence will not be cause for a warrantless arrest.
- C. If a confrontation between two or more persons develops into a breach of the peace, both or all disputants may be subject to arrest.
- D. Claimants may not trespass upon the property of another for purposes of removing or recovering property without a court order empowering them to do so.

Specific examples follow.

**Landlord/Tenant Dispute** - This type of dispute may include alleged trespassing by a landlord into the tenant's apartment, failure to pay rent, or removal of the tenant's contents from the apartment. Although both parties may insist that the officer take actions against the other, a criminal charge is questionable. The complainant should be advised to consult an attorney.

**Removal of Property From Residence (Domestic)** - The officer's objective is to preserve the peace and tranquility of the community. If one of the parties claim something is missing, the officer will advise the party it is a civil matter. If one of the parties is being prevented from entering a residence he/she previously occupied, advise him/her to consult an attorney.

### **Domestic or Neighborhood Arguments (Not Involving Weapons) (02-09-03)**

In domestic or neighborhood disputes, an officer shall:

- A. Park in a manner providing safe approach and an opportunity to evaluate the situation.
- B. Separate and interview disputants in a calm and unbiased manner.
- C. Get disputants to offer or suggest alternatives for resolving the dispute.
- D. Maintain third party neutrality while restoring normal communications between disputants.

Specific examples follow.

**Disturbance/Neighbor** - Common disputes between these parties would

include disagreements about boundary lines, excessive noise, etc. It would be advisable to discourage any trespassing charge which may be brought up. The two parties should be encouraged to see their attorney when applicable.

**Parental Custody Involving Children** - When responding to a call involving parental custody rights, the officer's actions should be one of neutrality, unless the proper court documents are at the scene.

**Orders of the Court (02-09-04)**

Officers of the Department shall enforce only local and current orders of the court which specifically direct the Sheriff or his/her duly constituted deputies and/or police officers to execute an order of judgment.

- A. After a local order of the court (e.g. restraining order) has been served, violations of the order which occur after the order is served must be reported by the complainant to the court which issued the order.
- B. Enforcement of violations of a local court order must originate from the court with an arrest warrant. Officers shall not make warrantless arrests for violations of civil court orders.
- C. A conditional order of the court which orders the arrest of a person shall not be executed unless the order is current and verification of the order and its provisions can be established at the time of arrest.

Specific examples follow.

**Repossession/Fieri Facies (FiFa)** - Repossession of property is always a civil matter. Repossession may be accomplished by the owner of the property or his/her authorized representative, providing there is no breach of the peace. Authorization to remove property will be fully described and its location will be listed in the court documents. If the owner refuses to relinquish the property, do not assist the reposessor in forcing the repossession. Inform both parties to have the matter referred to their attorney for civil disposition. The officer's purpose in these cases is only to keep the peace.

**Restraining Order** - Any civil judgment must specifically indicate that it will be enforced by municipal police officers or police officers of the City of Johns Creek in order for officers of this agency to take police action.