



LINCOLN POLICE DEPARTMENT GENERAL ORDERS

NUMBER: 1680
TOPIC: CIVIL DISPUTES
ISSUED BY: TOM CASADY, CHIEF OF POLICE
DATE: 11-1-1995
SUPERSEDES: O2303, 02304, 1991
REFERENCE:

I. POLICY

The Lincoln Police Department must maintain a position of neutrality in all civil disputes. When no crime is involved, and there is no threat of an imminent disturbance, officers will not be assigned to civil incidents. If officers encounter civil disputes, they shall intervene only for the purposes of preventing violence, restoring and maintaining public order, impartially mediating disputes, and making appropriate referrals of the parties involved to the courts, their private attorneys, or other resources.

II. PROCEDURE

A. Property Disputes

1. Officers should not be detailed to standby while property is being removed in a civil dispute over possession or ownership.
2. Officers should encourage presentation of both sides of the dispute. If the matter is civil, officers shall not assist either party, but may preserve the peace, mediate impartially, and refer the parties to their attorneys.
3. Officers may seek counsel from the legal advisor, City Attorney's Office, or County Attorney's Office when it is necessary to determine whether a property dispute is a criminal or civil matter. If officers cannot determine whether the matter is civil or criminal, they should proceed as if it is civil.

B. Repossession and Replevin

1. The law provides legal methods whereby a rightful owner may obtain possession of their property by judicial process. This process is known as "replevin."
2. Officers shall refrain from giving any assistance to individuals attempting repossessions without judicial process.
3. The department will assist the sheriff or court constables in executing replevin or similar legal process, if they request assistance, but only for the purpose of preventing violence or a violation of the law.

C. Eviction

1. In cases where the residence is jointly owned or rented, both parties have equal tenancy rights. If one party demands that the other be evicted from the home, the officer must restrict their action to impartial mediation to preserve the peace.
2. In cases where one party has locked the other out of the residence, no action may be taken by an officer other than preserving the peace.

D. Landlord-Tenant Disputes

1. The department shall intercede in landlord-tenant disputes relating to problems such as liens, trespass, property damage, and eviction to preserve the peace.
2. 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. Removing Persons

1. Officers do not have the authority to ban an individual from a location. Such an order must come from the owner or manager of the property.
2. A person may be arrested for trespassing who has been advised to leave by the owner or manager and refuses to do so, or who has been banned by the owner or manager but returns.
3. Hotel or motel owners or employees do not have the authority to permit officers to enter the room of a registered guest without the guest's permission or exigent circumstances.
 - a. Officers shall not eject a person or persons from their room solely at the request of the management.
 - b. Officers shall take appropriate action for any law violations.