

Civil Disputes

427.1 PURPOSE AND SCOPE

Best Practice MODIFIED

This policy provides members of the California Department of State Hospitals (DSH), Office of Protective Services (OPS) 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. This policy is applicable on the property of DSH and/or in the immediate vicinity.

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 California law.

427.2 POLICY

Best Practice MODIFIED

OPS 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, OPS employees 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, employees will remain impartial, maintain a calm presence, give consideration to all sides and refrain from giving legal or inappropriate advice.

427.3 GENERAL CONSIDERATIONS

Best Practice MODIFIED

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

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

- (a) Civil disputes tend to be confrontational and employees should be alert that they can escalate to violence very quickly. De-escalation techniques should be used when appropriate.
- (b) Employees 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) Employees shall not provide legal advice, however, when appropriate, employees should inform the parties when they are at risk of violating criminal laws and attempts of photographing or cell phone recording that would threaten the security of the hospital or the privacy of the patients.

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

427.4 COURT ORDERS

Best Practice

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 a report. 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 person appears to be violating the terms of a court order but is disputing the validity of the order or its applicability, the investigating officer should document the following:

- (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. The report should also be forwarded to the court issuing the order with a notice that the report was also forwarded to the prosecutor for review.

427.4.1 STANDBY REQUESTS

Best Practice **MODIFIED**

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 should be advised that items that are disputed will not be allowed to be removed. The employee may advise the person to seek private legal advice as to the distribution of disputed property.

Employees should accompany the person to the location of the property. Employees 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 is uncooperative, the person requesting standby assistance should be instructed to seek private legal advice and obtain a court order to obtain the items. Officers should not order the other party to allow entry or the removal of any items. Officers will verify the existence of a restraining order by either involved party, along with terms and conditions, by checking the California Law Enforcement Telecommunications System (CLETS), checking if either or both parties have a physical copy with them and if a physical copy has been filed with OPS in advance. If there is a restraining or similar order against the person requesting standby assistance, that person should be asked to leave the scene or they may be subject to arrest for violation of the order.

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

427.5 VEHICLES AND PERSONAL PROPERTY

Best Practice

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.

427.6 REAL PROPERTY

Best Practice

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