

	MARICOPA COUNTY SHERIFF'S OFFICE POLICY AND PROCEDURES	
	Subject CIVIL DISPUTES AND EXECUTION OF CIVIL PROCESS	Policy Number EE-2
		Effective Date 12-25-24
Related Information ARS 13-3602; 13-3624; 25-315; 25-808 EA-8, <i>Domestic Violence</i> EH-1, <i>Address Confidentiality Program</i> GJ-20, <i>Service of Protective Orders</i>	Supersedes EE-2 (01-12-23)	

PURPOSE

The purpose of this Office Policy is to establish guidelines and procedures to be used in responding to civil disputes and further establish guidelines regarding the documentation and execution of civil process.

POLICY

It is the policy of the Office to respond to and assist, when necessary, in civil disputes and the execution of civil process. Deputies shall enforce all laws while offering professional, non-biased assistance; their primary role is to ensure the safety of all persons involved and shall also follow applicable procedures, as specified in Office Policy EH-1, *Address Confidentiality Program*.

DEFINITIONS

Address Confidentiality Program (ACP): A program administered by the Arizona Office of the Secretary of State to protect the confidentiality of the actual address of a relocated victim of domestic violence, a sexual offense, or stalking.

Arizona Protective Order Initiation Notification Tool (AZPOINT): A web-based, automated system used by judicial officials and law enforcement agencies to process, manage, and track protective orders.

Civil Process: Writs, summonses, mandates, or other process from a court of law or equity pertaining to a civil matter. The term includes the process to be served by the Office in any action involving civil litigants.

Civil Standby: The response of sworn Office personnel to the request of one or more parties who are hostile toward each other in a civil matter for the express purpose of keeping the peace.

Defendant: For the purpose of this Policy, the defendant is the person against whom the plaintiff or another appropriate person is seeking protection.

Injunction Against Harassment (IAH): An Injunction Against Harassment, governed by ARS 12-1809, may be granted to prevent a person from committing acts of harassment against another. There is no relationship requirement.

Injunction Against Workplace Harassment (IAWH): An Injunction Against Workplace Harassment, governed by ARS 12-1810, authorizes an employer or authorized agent to seek a court order preventing a person from being on the employer's premises and from committing acts of harassment against the employer, the workplace, employees, or any other person who is on the employer's property or at the place of business or who is performing official work duties.

Order of Protection (OOP): Per Rule 4 of the Arizona Rules of Protective Order Procedure, an Order of Protection, governed by ARS 13-3602, may be granted to prevent a person from engaging in acts of domestic violence. It is limited to parties with relationships specified in ARS 13-3601(A), the domestic violence statute. It is a court order issued to restrain a person from committing harmful acts including those in the domestic violence statute. A protective order includes any order issued for the purpose of preventing violent or threatening acts or harassment against, contact or communication with, or physical proximity to another person, including preliminary, temporary, and final orders. The Order of Protection (OOP) is comprised of the following:

1. Petition for Order of Protection: Indicates what the plaintiff is requesting.
2. Order of Protection: Indicates what has been ordered by the court.
3. Defendant's Guide Sheet and a Brady Warning Document: These forms may also be included in the Order of Protection document package. If the forms are included, they are required to be served as part of the Order of Protection.
4. Declaration of Service: Indicates when the service of the order was conducted.
5. Service of Process Form: This form may be included as part of the Order of Protection (OOP) document package. This form is a confidential form completed by the Petitioner/Plaintiff to aid law enforcement in the service of the Order of Protection. The form also contains confidential contact information so that the Petitioner/Plaintiff can be contacted; as well as other relevant information to aid in the service. The Service of Process Form shall not be given, shared with, or viewed in any way by the person being served.

Preliminary Injunction: A temporary court order, governed by ARS 25-315, which may be issued by the Superior Court upon the filing of a divorce case which prohibits both spouses from certain activities commonly related to community property and child custody. A Preliminary Injunction is effective until a final decree of dissolution, legal separation, or annulment is filed, or the action is dismissed. Disobeying of an order may result in contempt of court, arrest, and prosecution for the crime of interfering with judicial proceedings and any other crime committed in disobeying the order. ARS 25-315 also governs in part, that in all actions for dissolution of marriage, for legal separation, or for annulment, the Clerk of the Court shall, pursuant to order of the Court, issue a preliminary injunction directed to each party to the action and contain the following orders:

1. Both parties are enjoined from transferring, encumbering, concealing, selling, or otherwise disposing of any of the joint, common, or community property of the parties except if related to the usual course of business, the necessities of life, or court fees and reasonable attorney fees associated with an action filed under this article, without the written consent of the parties or the permission of the court.
2. Both parties are enjoined from molesting, harassing, disturbing the peace of, or committing an assault or battery on the person of the other party or any natural or adopted child of the parties; removing any natural or adopted child of the parties then residing in Arizona from this state without the prior written consent of the parties or the permission of the court; and removing or causing to be removed the other party or the children of the parties from any existing insurance coverage, including medical, hospital, dental, automobile and disability insurance.
3. Both parties shall maintain all insurance coverage in full force and effect.

Protective Order: For the purposes of this Policy, this term is used to designate and differentiate an Order of Protection, or an Injunction Against Harassment from a Restraining Order.

Restraining Order: An Order issued by a court to prohibit persons or businesses from taking specified actions. A deputy who is asked to take enforcement action, as a result of a violation of a restraining order, will advise the plaintiff to contact the issuing judicial officer who signed the document and request that a summons be issued. Office Policy EA-8, *Domestic Violence* specifies enforcement which may be taken regarding violations of a court order, to include an Order of Protection and Injunctions Against Harassment.

Warrant to Take Physical Custody of Child: An order from the Superior Court, decreeing that the Sheriff or any Arizona law enforcement officer take custody of the subject children and turn them over to some entity, either specified persons or the Department of Child Safety (DCS), as specified on the warrant. Office Policy authorizes sworn personnel to serve these court ordered actions, as they are not civil process, but are a warrant. Sworn personnel must be careful that the orders they may be presented with are proper before taking action.

Writ of Replevin: An order by the courts issued to recover an item of personal property wrongfully taken.

Writ of Restitution: The process of enforcing a civil judgment in a forcible entry-and-detainer action or enforcing restitution on a verdict in a criminal prosecution for forcible entry and detainer.

PROCEDURES

1. **Acceptance of Civil Process:** Civil process is to be accepted for service only by the Judicial Enforcement Division (JED) at its public counter or by mail. All civil process should be referred to the Civil Section within the JED. If exigent circumstances exist where this cannot be accomplished, employees shall notify a supervisor from the JED of the service, through the Communications Division, to include service of Injunctions Against Harassment. This does not apply or pertain to Orders of Protection where both parties are present. Protective Orders shall be served, and documented in AZPOINT, as specified in Office Policy, EA-8, *Domestic Violence* and at the direction of the on-duty supervisor. The JED records the date, hour, and minute on the document at the time of acceptance. The JED shall then complete a worksheet that contains the following information:
 - A. The date and time the document was received;
 - B. An accurate and complete description of the process received, such as a summons, subpoena, or civil writ;
 - C. The name of the deputy and the date the process was assigned for service, as well as the date service is due, if applicable; and
 - D. The name of the plaintiff and defendant or person to be served, the respective court, and the court docket number.
2. **Serving Civil Process:** When a deputy serves or attempts to serve civil process, excluding Orders of Protection and Injunctions Prohibiting Harassment, the following information will be recorded on the back of the document or on the worksheet and/or Civil Serve:
 - A. The address at which service was attempted;
 - B. The date and time of the attempt;
 - C. The name and serial number of the deputy attempting to complete the service;
 - D. The progress, results, disposition, or an explanation of the non-service of the civil process;
 - E. To whom the process was served, or on whom it was executed;

- F. The method of service; and
 - G. Mileage traveled to effect or attempt service. Mileage information shall be recorded on the worksheet.
3. **Service of Protective Orders:** For the service of Protective Orders, deputies shall follow the procedures as specified in Office Policy GJ-20, *Service of Protective Orders*. Orders of Protection which grant exclusive use of a residence should be enforced at the time of service. The serving deputy should require the defendant to leave the protected location as indicated on the order. Exceptions to the requirement for removal shall be approved by a supervisor.
4. **Private Process Servers:** The Office does not provide assistance for the selection or recommendation of private process servers. Those who request Office assistance are to contact the JED to arrange for service, upon payment of the appropriate statutory fees.
5. **Completion of Service:** With the exception of Protective Orders, upon completion of service, or inability to complete service, the document and worksheet shall be returned to the JED for the appropriate disposition or retention in accordance with current guidelines.
6. **Civil Standby Assistance:** Deputies are responsible to assist with a civil standby when dispatched by the Communications Division or as directed by a supervisor. The purpose of the civil standby is to keep the peace. The deputy should ascertain the scope of the civil standby; whether any/all other parties will be present; whether locked buildings/structures/vehicles will be entered; and by what means entry will be made. The deputy shall consult with a supervisor, when at least one of the parties is not present. The supervisor may require the presence or notification of the involved parties prior to complying with the civil standby request. The deputy shall not intervene in favor of any party. If the desired transaction cannot be accomplished peacefully, the deputy shall defer to the party in current possession of the property or premises in question and ensure the departure of all other parties. The deputy shall admonish all parties to seek a legal resolution to the matter and warn that any confrontation which includes an illegal act, or constitutes a breach of the peace, can result in arrest.
- A. Generally, the persons requesting a civil standby shall be permitted to take clothing, medicines, and hygiene items for themselves and any children, and may include toys.
 - B. No major appliances, stereos, or other non-personal property will be removed, with the exception of portable or easily carried television sets.
 - C. Conflicts over property, title, furniture, finances, real estate, or other ownership issues cannot be resolved by Office employees. The parties in conflict must be directed to resolve their dispute in court proceedings.
 - D. The deputy shall use their discretion for questionable items, as the situation dictates.
7. **Civil Disputes:**
- A. **Civil Court Orders and Evictions:** Deputies may arrest persons who refuse to obey a Writ of Restitution once the writ has been executed and served; the person refusing to leave can be arrested for trespassing. Should deputies come into contact with Constables of the Justice Courts requesting aid in the service of a Writ of Restitution and the subject refuses to obey the writ, deputies shall refer the constables to the JED for assistance. Deputies shall not enforce a Justice Court Writ of Restitution but shall assist the JED, upon request, when required to enforce a Superior Court Writ of Restitution.

- B. Court Orders from Other States: Court orders from other states, except for protective orders, are not enforceable in Arizona until they have been domesticated through judicial review with the Superior Court of Arizona. Deputies who are presented with an out-of-state court order, and the proper documentation and conformation showing that the court order has been domesticated with the Superior Court in this state, should handle the order in the same manner as any other court order issued in this state.
- C. Personal Property Lien: Proprietors of garages, and repair and service stations shall have a lien upon motor vehicles of every kind including aircraft, and the parts and accessories placed thereon, for labor, materials, supplies, and storage for the amount of the charges, when the amount of the charges is agreed to by the proprietor and the owner, as specified in Arizona Revised Statutes (ARS) 33, Chapter 7, Articles 6 and 7. Watercraft and domestic vessels are also covered under ARS which provides for a similar remedy.
- D. Repossession of Property: When a person buys an article, such as a piece of furniture, appliance, or automobile, on an installment contract, the lender may retain a security interest in the article until the loan has been fully repaid. Unless prior arrangements have been made, the lender has the right to take possession of the item without court action, based upon the strength of the security interest alone.
 - 1. The lender, in addition to their repossession rights, is entitled to enter onto the property of the debtor for the purpose of taking the secured property.
 - 2. Repossessions may only be accomplished if they do not result in a breach of the peace.
 - 3. When a member of the public calls and requests a deputy be dispatched to standby during a self-help repossession they are to be advised a standby **cannot** be provided. The requestor shall be further advised to seek a Writ of Replevin to affect the repossession.
- E. Self-Service Storage Lockers: Owners of self-service storage locker facilities have the right to withhold personal property stored in locker spaces if rent is due and remains unpaid pursuant to ARS 33, Chapter 15. If rent payments are 30 days past due, the storage locker owner may sell the property. These rights apply **only** if the rental agreement contains warnings to the tenant that the storage locker owner has these rights. Complainants should be advised to contact a private attorney.
- F. Child Custody Orders: Child custody warrants are not the same as a Petition to Enforce Child Custody or an Order for Appearance of Persons with Physical Custody of Children. These two named documents merely constitute a summons for someone to appear in court and to bring the children to court for a hearing to determine custody or some other issue involving the situation. Persons with these papers should be referred to the JED for service. Persons with Warrants to Take Physical Custody of Child(ren) papers should be referred to the JED during regular business hours, otherwise the deputy should contact a JED supervisor for guidance.
- G. Child Custody Warrant to Take Physical Custody of Child: Although deputies may serve a Child Custody Warrant to Take Physical Custody of Child, this order should be served only after consultation with a JED supervisor. When exigent circumstances are not present, these orders should be referred to the JED.
- H. Deputies shall not take enforcement action on violations of restraining orders unless a separate criminal offense occurs. Action will then only be taken on the separate criminal offense. Persons inquiring about the procedure for obtaining a restraining order will be advised that:

1. Restraining orders concern civil matters in which no law enforcement action is required.
 2. A crime need not have been committed before a restraining order can be issued. The complainant will be further advised to contact a private attorney.
 3. The following website may offer additional assistance with any inquiries:
www.superiorcourt.maricopa.gov/SuperiorCourt/ProtectiveOrderCenter/iah.asp.
- I. Courts Outside of Arizona: Excluding lawfully issued protective orders, the Office only has authority to enforce orders issued by an Arizona Superior Court.
1. Orders from courts outside Arizona should not be acted upon until they have been domesticated by an Arizona Superior Court.
 2. Orders from Indian Tribal Courts should not be acted upon. Persons requesting action on such orders should be referred to the JED.
 3. Parties requesting action on any custodial matter other than a Warrant to Take Physical Custody of Child from another state should be directed to the JED.
- J. JED Contact: If an employee has any doubt regarding any court order coming to the attention of the Patrol Bureau, a JED supervisor should be contacted through the Communications Division.
8. **Registering a Preliminary Injunction:** ARS 25-315 provides that a certified copy of a preliminary injunction order may be filed with a local law enforcement agency. Deputies responding to a person requesting information on registering a preliminary injunction order and any supporting documents, may direct the person to contact the OIC/Warrant Section of the MCSO Records and AFIS Division to complete the registration processes for this action.
9. **JED Guidelines and Reference Sheet:** For further assistance to deputies, related to civil procedures indicated in this Office Policy, a compact guideline sheet is provided in the shared drive Policy folder of GJ-20, *Service of Protective Orders*, and this Office Policy.