

GENERAL ORDER XI

SUBJECT: STANDY-BY ASSISTANCE REQUESTS

EFFECTIVE DATE: 02-27-96

REVIEW DATE: 01-13-12

NOTE: This rule or regulations is for internal use only. and does not enlarge a officer's civil or criminal liability in any way. It should not be construed as the creation of a higher standard of safety or care in an evidentiary sense, with respect of a third party claim. Violations of this directive, if proven, can only form the basis of a complaint by this department, and then only in a nonjudicial administrative setting.

I. PURPOSE

Due to recent court decisions, it is important to establish guidelines for response to "Standby Assistance" calls for service that involve a civil dispute.

It is clear that a city and/or officers thereof may face civil liabilities by simply being present under color of law where "Due Process" papers are not present. The Sheriff's Department assumes the responsibility for serving "show cause" orders; therefore, this order will provide uniform answers to those person requesting such assistance.

II. POLICY

A. No Due Process

Persons who request "standby assistance" and do not have "Due Process" papers shall be advised to contact an attorney to apply for such documents. If they claim indigency, they shall be advised to contact a legal aid agency. They shall be advised that if "Due Process" is not completed and papers are not present, no standby assistance can be provided by our department.

B. Incomplete Due Process

Persons who request "standby assistance" and have received "Due Process" civil papers from a court shall be questioned as to whether those papers set out action by the sheriff. If not, they shall be advised to re-contact their attorney or the legal aid agency through which they originally sought such "Due Process" papers.

C. Correct Due Process

Persons requesting "standby assistance" who possess "Due Process" civil papers that set out action by the sheriff shall be referred to the Howell County Sheriff's Office.

D. Exception

When officers are on a call for service and circumstances change from their initial reason for response (i.e., fight, disturbance, etc.) to "standby assistance", the officers may "standby" for a reasonable amount of time to prevent further assault or injury.

III. Examples

A. No Due Process

Mr. Jones calls our department and advises that he would like an officer to "standby" while he collects some personal property from his estranged wife at her residence. When asked, he states that he has no legal documents and that he has not contacted an attorney. He would then be advised that we do not provide "standby" assistance in cases of civil dispute and that he should contact an attorney or a legal aid agency to establish legal claim to his property.

B. Incomplete Due Process

Mr. Jones calls our department and advises that he recently had been granted a divorce from his wife and would like to have an officer "standby" while he takes possession of the articles granted him by the court. He states further that he has papers from the court giving a detailed listing of those articles. After being asked if the papers set out action to be taken by the Sheriff, he replies, "No". He would then be advised to contact his attorney (or legal aid, if appropriate) if he feels that he would not be able to take possession of the articles without difficulty.

C. Correct Due Process

Mr. Jones calls and advises that he has papers issued by the court that set out actions to be taken by the Sheriff's Office to aid him in collecting property granted to him in a divorce settlement and that he would like to have an Officer "standby" while he collects those articles. He would be advised to contact the Sheriff's Office because the papers direct the Sheriff to take action, not the Police.

D. Exception

Mrs. Jones calls and advises that her estranged husband is at her home and is refusing to leave. Officers are dispatched to the residence and find Mr. and Mrs. Jones involved in an argument. Mr. Jones states that "he came to retrieve some personal articles consisting of shaving equipment and some of his clothing". Mrs. Jones advises officers that she fears harm from him and that she does not want to be left alone with him. Since the original call was a subject refusing to leave, officers could "standby" until Mr. Jones obtains his personal articles and leaves, as long as they remain completely neutral (do not advise him he has the right to take property, nor advise her she must let him take property).

AUTHORITY

- A. This policy is issued by the authority of the Chief of Police. Any policy additions, deviations or revisions shall be made only at the direction of the Chief of Police.

By Authority of:

Charles Brotherton, Jr., Chief of Police