

# ACTIONS INVOLVING CIVIL PROCESSES

Directive: 6.24

Frequently, person(s) who are authorized to serve eviction notices, repossess property, and to serve other civil processes, in anticipating a breach of the peace will request a police officer's presence. The police officer's role in these incidents is to insure that the Processor has the proper court papers prior to proceeding with the Civil Process. Second, the officer is to insure that peace is maintained while the process is being served.

The only exception to this procedure will be the repossession of the property (vehicles, furniture, appliances, etc.) which is covered in the Delaware Code, Title, 6, Section 9-503. This Section states that if the reposessor is able to take possession of the property without a breach of the peace, then he may proceed without judicial process citing the original purchase contract as his right to take possession. However, if a dispute should arise between the parties involved concerning the possession of the property, the participants will be referred to Magistrate Court to file the appropriate complaint. In the meantime, the property will remain with the person who purchased the property.

In short, the police officer is to advise the participants involved in civil cases to have the proper court papers in their possession prior to requesting police assistance.

**When investigating disputes at a private residence, where one party is requesting that a second party leave or be removed from the residence, the officer must attempt to determine who has legal standing in the residence. This is often determined by who owns or rents the premise. In the event that the person to be removed, is an invited guest who is not responsible for the residence, that person can be asked to leave. If they refuse the officer may take that person into custody and have the complainant respond to Municipal Court to sign warrants. The owner/renter of the premise should not be directed to a Magistrate Court unless the offending party can prove to the officer that an agreement, whether written or verbal, exists, which would prove their legal standing.**

