

	KANSAS CITY MISSOURI POLICE DEPARTMENT	DATE OF ISSUE	EFFECTIVE DATE	NO.
	<b>PROCEDURAL INSTRUCTION</b>	5/12/2021	5/12/2021	21-06
SUBJECT			AMENDS	
Response to Primarily Civil Incidents				
REFERENCE		RESCINDS		
83 U.S. 366 (Taylor v. Taintor) Chapter 304.155, 315.075, 374 RSMo. PI's: Recovered Property Procedures Arrest Guidelines/Procedures Economic Crimes Offenses DM: Concealed Carry/Stand Your Ground LB's: Requirements for Bonding Companies and Bounty Hunters Operating within the City of Kansas City, MO		PI 17-15		

## I. INTRODUCTION

This written directive provides guidelines and procedures for handling situations of a civil nature.

## II. GENERAL GUIDELINES

- A. Members have limited authority to act upon civil matters and should contact a supervisor when they are unsure of what action to take.
- B. The Office of General Counsel is to be contacted in instances when a member's position is uncertain.

## \*III. TERMINOLOGY

- A. **Bail Bond Agent** - A surety agent or an agent of a property bail bondsman employed by and working under the authority of a licensed general bail bond agent, and duly licensed pursuant to Sections 374.695 – 374.789 RSMo. Licensed bail bond agents may perform fugitive recovery without being licensed as a surety recovery agent.
- B. **Established Residency** - A party who is not on a written lease, but appears to have legitimately established residency and has possessions in the residence (e.g., clothing or personal items) is considered to have established residency and is, therefore, a tenant.
- C. **Eviction Order** - An order with a date of judgment signed by an Associate Judge for the county in which the property is located.
- D. **General Bail Bond Agent** - A surety agent or a property bail bondsman, as defined by Sections 374.700 - 374.775 RSMo. who devotes at least fifty percent of their working-time to the bail bond business in this state. Licensed general bail bond agents may perform fugitive recovery without being licensed as a surety recovery agent.

- E. **Notice to Vacate** - A notice written by the landlord or the tenant to leave the premises of a property within a specified time frame, or to demand the same. This notice does not give the landlord/agent of the landlord the authority to exclude (lock-out) the tenant.
  
- F. **Repossession** - An action in which a creditor reacquires possession of property with the intent to deprive the debtor of any further control over the property.
  - 1. Repossession occurs when the creditor takes and continuously maintains possession of the property, keeping it at a place of the creditor's choosing.
  
  - 2. There are two (2) ways that a vehicle or other property can be repossessed:
    - a. **Replevin Order** - An order signed by an Associate Circuit Judge allowing an individual to claim the right to the possession of the property.
  
    - \*b. **Self-Help Repossession** - Occurs when an agent of a creditor removes property without detection from a public or private place. Often, in the case of a vehicle, a tow truck driver will be the agent of a creditor. Unless otherwise agreed, a secured party, has on default, the right to take possession of the collateral (property).
  
- G. **Surety Recovery Agent** - An individual not performing the duties of a sworn peace officer who tracks down, captures, and surrenders to the custody of a court a fugitive who has violated a bail bond agreement. These individuals were referred to as "bounty hunters" in the past and cannot perform the duties of a bail/general bail bond agent unless licensed as such.

#### IV. TABLE OF ANNEXES

This directive has been arranged in annexes for easy reference.

<b>ANNEX A</b>	Bond Agent and Surety Recovery Agent
<b>ANNEX B</b>	Landlord/Tenant Disputes
<b>ANNEX C</b>	Replevin Order and Self-Help Repossession
<b>ANNEX D</b>	Police Response to Hotel/Motel Ejections



Richard C. Smith  
Chief of Police

Adopted by the Board of Police Commissioners this 28 day of April 2021.



W. Don Wagner  
Board President

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**BOND AGENT AND SURETY RECOVERY AGENT**

- A. Sworn members will not act as “agents” of, or on behalf of a bond agent or surety recovery agent, or lend their cloak of “color of law” to this private undertaking.
- B. Under the Professional Bail Bondsman and Surety Recovery Agent Licensure Act, bond agents and surety recovery agents are prohibited from engaging in the bail bond business without being licensed by the Department of Insurance.
- C. Requirements
  - 1. Bond agents and surety recovery agents are governed by the Missouri Department of Insurance, but locally they will process and receive their qualifications through their respective county courthouse.
  - \*2. Licensed bail bond agents or surety recovery agents are required to notify the appropriate law enforcement jurisdiction/authorities before they attempt to apprehend any individual. A violation is a class "A" misdemeanor and any subsequent violation is a class "E" felony (Section 374.757 RSMo.).
    - a. Bond agents or surety recovery agents are to respond to a division station for the completion of the Bondsman Notification of Intent to Apprehend and Enter a Residence, Form 95 P.D. (this electronic form is located on the Intranet).
    - b. A certified copy of the bond and all paperwork identifying the individual to be apprehended must be presented for completion of the online form.
  - 3. Bail bond agents or surety recovery agents will possess and upon request, present to members the following:
    - a. A certified copy of the bond.
    - b. A copy of the bond application. The particular address may not be on the bond application.
    - c. A state-issued identification card which will be prominently displayed on their person, when performing fugitive recovery (Section 374.788 RSMo.).
    - d. The appropriate paperwork identifying the subject/defendant being sought.
- \*D. Bond agents or surety recovery agents may (83 U.S. 366):
  - 1. Seize the defendant whenever they choose in the discharge of the bond.

2. Imprison the defendant (by surrendering to authorities) until the time of the defendant's appearance.
3. Forcibly enter the defendant's residence to recapture the defendant.
4. Pursue the defendant into other states.
5. Recapture the defendant through "reasonable means" any time, day or night, without a warrant or other process.
6. Exercise these rights over the defendant, in person or by a surety recovery agent.

E. Restrictions

1. A bond agent or surety recovery agent is a private citizen and has no greater authority to enter the residence of a third party than does a private citizen.
2. A bond agent or surety recovery agent does not have the right to assault an individual.
3. Members will handle these incidents as they would with any other private citizen.

F. Member Guidelines

1. Unless the sworn member believes that their presence is necessary to avoid a breach of the peace, the sworn member will wait near their department vehicle until the bond agent or surety recovery agent apprehends the defendant.
2. Sworn members will only become involved if there is an actual breach of the peace.
3. Under no circumstances will the sworn member assist the bond agent or surety recovery agent in gaining entry into the residence.
4. Sworn members can enter the residence when:
  - a. Exigent circumstances or an emergency situation exists or arises.
  - b. There is an outstanding warrant for the individual who is believed to reside at the location and the sworn member has information that the person is inside the residence.
5. If the criteria is met which allows sworn members to enter the residence to effect an arrest for an outstanding warrant, the bond agent or surety recovery agent will be instructed to remain outside of the residence.

6. When the subject has a verified outstanding warrant, the sworn member will take custody of the subject by following current written directive entitled, "Arrest Guidelines/Procedures."

G. Authority to Carry a Weapon

Members will refer to current written directives entitled, "Conceal Carry/Stand Your Ground" and "Requirements for Bonding Companies and Bounty Hunters Operating within the city of Kansas City, MO."

## LANDLORD/TENANT DISPUTES

- \*A. The Kansas City Prosecutor's Office in conjunction with Legal Aid of Western Missouri request that members enforce two (2) provisions of the municipal ordinance relating to the landlord/tenant relationship:
  - \*1. The removal of personal property in certain circumstances as described below.
  - 2. Interrupting or causing the interruption of essential services.
- B. Members are not to become involved in handling property custody issues involved in these cases.
- \*C. Eviction Order
  - 1. Individuals occupying residential or business property who are subject to eviction generally cannot be removed without an eviction order typically served by the appropriate county Sheriff's Deputy or Court Administrator in Jackson County.
  - 2. In the event of a lawful court-ordered action, members will:
    - a. Preserve the peace.
    - b. Review the court papers for the legal date of effect.
    - c. Not assist in entry or seizure of property.
  - 3. Members can refer the tenant to contact 311, the residents' hotline for City services and information for assistance.
  - 4. Members will become involved **only** to the extent necessary to safeguard parties and preserve the peace.
- \*D. Tenant Lock-Out Violations
  - 1. During calls-for-service regarding a disturbance involving a landlord/tenant dispute where an "Eviction Order" has not been served, members will determine if the landlord/agent of the landlord:
    - a. Excluded a tenant by changing or altering locks.
    - b. Removed, took, or secured the tenant's property.

- c. Changed or removed the tenant's doors.
  - d. Cut off one or more essential services including, but not limited to, electric, gas, water, or sewer service.
- 2. Members may issue the appropriate summons if the above criteria have been met and probable cause exists.
  - 3. If a summons does not seem appropriate or the tenant is unwilling to press charges, members may refer them to the appropriate county court for further information regarding mediation to resolve the landlord/tenant dispute.

E. Established Residency

- 1. Sworn members will use discretion based on information reasonably available at the time when determining if a party has established residency and should not order the party to leave the residence.
- 2. Disputes between a landlord and a party who has established residency will be referred to their county courthouse for appropriate eviction procedures.

F. Restrictions

- 1. Members will not allow parties to use general laws to accomplish a prohibited result. Example: Using disturbing the peace arrest to remove either party absent a truly objective violation under the circumstances.
- 2. The trespass ordinance is not applicable in landlord/tenant disputes.



**REPLEVIN ORDER AND SELF-HELP REPOSSESSION**

- \*A. In accordance with Section 304.155.11 RSMo., when a lienholder repossesses a vehicle, trailer, ATV, or vessel without the knowledge or cooperation of the owner, the reposessor is mandated to report the repossession to the Department within two (2) hours of the repossession for the information to be entered into the statewide law enforcement computer system.
1. The Criminal Records Unit (CRU) will process notifications of repossession from lienholders.
  2. Typically the lienholder will fax a notice to the CRU who will enter the information into MULES (Missouri Uniform Law Enforcement System) in a category specified for repossessions.
- B. All property, including automobiles being repossessed and transported across state lines, require the same type of documentation, although the forms may be different.
- C. Member Restrictions
1. A member's presence could be construed as intimidation by the debtor and cause them to refrain from exercising their legal right to resist a repossession.
  2. Members will not become involved in:
    - a. Negotiating a solution between the parties in the civil proceeding.
    - b. Repossessions, except to the extent necessary to prevent a breach of the peace. If the member's presence seems to be aiding the reposessor, members will return to their vehicle and/or leave the scene.
  3. Members may make arrests upon probable cause should any party take action leading to a breach of the peace.
- D. Replevin Orders
1. The order may allow entry onto private property.
  - \*2. Typically served by the appropriate county Sheriff's Deputy or a Court Administrator in Jackson County. The county officials are authorized by the statute to use necessary force.
  - \*3. Members will become involved **only** to the extent necessary to safeguard parties and preserve the peace.

4. The breach of the peace limitation on repossession does not apply.
5. Personal property found in a vehicle being repossessed must be returned on demand.

E. A Self-Help Repossession

1. In taking possession, a secured party may proceed without a Replevin Order if this can be done without a breach of the peace.
  - a. A breach of the peace limitation on repossession is only applicable to Self-Help Repossession.
  - b. A breach of the peace is committed when speech or conduct is such as to violate the public order, disturb the public tranquility, or has the potential of provoking violence.
  - c. Breaches of the peace also include:
    - (1) Threats or use of violence, damaging the property, use of abusive language, and in the absence of an agreement between the parties to the contrary, breaking and entering to gain possession of the property.
    - (2) When a creditor repossesses over the unequivocal oral protest of the defaulting debtor or if the creditor can repossess the property because of intervention by a member.
    - (3) A demand for the return of the property within a vehicle by the debtor at the scene of the repossession.
  - d. If a breach of the peace occurs at any time during a Self-Help Repossession, the individual repossessing the property should stop the actions they are taking and obtain a Replevin Order to repossess the property at a later date.
2. All property, including automobiles found on public property or on the property of a consenting third party, may be legally repossessed. No court action is necessary.

\*F. Members dispatched to disturbances regarding disputes over property associated with a documented failure to return leased/rented property will refer to the current written directive entitled, "Economic Crimes Offenses."

**POLICE RESPONSE TO HOTEL/MOTEL EJECTIONS**

A. In accordance with Section 315.075 RSMo., an owner or operator of a hotel/motel may eject an individual from the hotel/motel and notify law enforcement authorities for any of the following reasons:

1. Nonpayment of charges incurred by the individual renting or leasing a room, accommodations, or facilities of the hotel/motel when the charges are due and owing.
2. The individual renting or leasing a room, accommodations, or facilities of the hotel/motel is visibly intoxicated, under the influence of alcohol or other drugs, and is disorderly so as to create a public nuisance.
3. The owner or operator reasonably believes that the individual is using the premises for unlawful purposes.
4. The owner or operator reasonably believes that the individual has brought something into the hotel/motel which may create an unreasonable danger or risk to other people, including but not limited to the unlawful use of firearms or explosives.
5. The individual violates any federal, state, local laws, or regulations relating to the hotel/motel.

B. Member Guidelines

1. Members will not take actions against any occupant of a hotel/motel without the hotel/motel owner or operator initiating the ejection for a lawful reason.
- \*2. Members responding to a request for assistance by a hotel/motel owner or operator conducting an ejection will:
  - a. Contact the hotel/motel owner or operator and ensure they are ejecting the party for one of the aforementioned reasons.
    - (1) If the owner or operator is **not** ejecting the party for one of the aforementioned reasons, advise them the ejection is unlawful and police assistance will not be provided.
    - (2) If the ejection is lawful, accompany the owner or operator on the ejection if requested and take appropriate actions if the party refuses to comply with the ejection.
  - b. Take any appropriate police action once the ejection is complete to ensure compliance with federal, state, and local laws.

- C. All federal, state, and local laws become enforceable once the parties are ejected by the owner/operator of the hotel/motel. For example, if the party refuses to leave the room, they can be arrested for trespassing (provided the business pursues charges).