



CITY OF MADISON POLICE DEPARTMENT  
STANDARD OPERATING PROCEDURE



**Preserve the Peace**

Eff. Date 02/28/2020

**Purpose**

The following Standard Operating Procedure outlines procedures to be used for conducting preserve the peace incidents. Preserve the peace calls can pose a danger to victims, law enforcement officers, and the community.

The Madison Police Department recognizes there are times when it may be beneficial to facilitate the exchange and release of personal property involving individuals with no contact orders, or individuals involved in a civil dispute over property.

Regarding preserve the peace incidents that involve persons who are or were intimate partners, the separation or ending of a relationship can be a dangerous time for victims of domestic abuse. Domestic abuse investigations and preserve the peace incidents can pose a threat to law enforcement officers and their safety due to the relationship of the involved parties. These calls also pose a significant threat to victims and the request for a Preserve the Peace can escalate to stalking type behavior. However, under certain circumstances, facilitating minimal property exchange may ease tensions and improve the situation for the victim and ensure safety for both parties and officers.

Officers of the Madison Police Department should evaluate each request on a case-by-case basis. Officers can decline to provide the preserve the peace, or cease the preserve the peace at any point, if the requestor is uncooperative or the officer determines the requestor's intent is to harass or intimidate the victim/petitioner. Repeated calls for a preserve the peace can be a mechanism used to harass or intimidate.

**Procedure**

1. The primary officer shall speak with the subject requesting the preserve the peace and determine the reason for the request and what specific items of property the requestor would like to retrieve.
  - a) If the preserve the peace is requested within the 72 hours following an arrest for domestic abuse, the property should be limited to personal property for short-term needs, such as medications, work equipment, clothing, etc.
2. The primary officer shall contact the person in control of the property to determine if that person is willing to consent to the preserve the peace.
  - a) If the person in control of the property does not agree to the exchange of property, then officers should
    - i. Inform the person requesting the preserve the peace that they should seek legal counsel to address the property issue. Officers shall not facilitate a preserve the peace without the consent of the person who has control of the property.
    - ii. Consent from the person who is legally occupying the premises is required, even if that person is not on the premises. Petitioners of no contact orders have the right to protection even if she/he is not physically present.
    - iii. If ownership of the property the requestor is seeking is disputed, officers should not allow the requestor to take the disputed property without a court order. Officers should advise the requestor to seek legal counsel regarding any disputed property.
  - b) If the person in control of the property agrees to the release of property, then officers shall reasonably manage the exchange.

- i. Officers should check for any “no contact” provisions already in place between the involved parties. The no contact orders may include the following:
    1. 72-Hour No Contact Provision
    2. Temporary Restraining Order (TRO)
    3. Injunction (Domestic Abuse, Harassment, Child Abuse, Vulnerable Adult)
    4. Court ordered bail conditions
    5. Wisconsin Department of Corrections (P&P) rules
  - ii. If there is a “no contact” in place between the involved parties, then the officer has discretion on how best to facilitate the exchange of property, or refuse the exchange of property all together.
  - iii. The officer should check for any recent prior preserve the peace calls between the involved parties. The requestor may be using the preserve the peace requests as a way to harass, intimidate, or stalk the other party.
  - iv. The officer may suggest to the person in control of the property to have the requested property packed and ready to go to facilitate a safe and efficient preserve the peace.
  - v. Consider options such as having the officer deliver the property to the requestor, or have the person in control of the property wait in a safe location away from the residence while officers respond to the residence with the requestor.
  - vi. It is preferable to not have the involved parties at the same location (particularly in cases of Intimate Partner Violence) at the same time, so as to not put the safety of the victim/petitioner and the officers at risk.
  - vii. If the requestor will be picking up the property at the residence or work place of the person in control of the property, this exchange should be managed by officers. The requestor should never be left unattended and should not have unescorted access to the premises.
  - viii. Generally, officers should not be expected to standby when significant property exchanges (i.e., helping someone move out or obtaining large amounts of personal property) are being requested and should only allow the preserve the peace to occur for a reasonable period of time. Patrol resources can be a factor in determining if officers are going to allow for a preserve the peace. Officers should also evaluate any previously requested preserve the peace incidents and if property has already been removed when determining if an additional preserve the peace will occur. If a larger than reasonable amount of property is being requested, officers can suggest to the requestor that they seek a court order and/or arrange for a friend or moving company to facilitate this request (as long as the person in control of the property consents to this arrangement).
3. Officers shall document the preserve the peace in a report titled “Preserve the Peace.”
  4. Both parties involved should be encouraged to seek legal counsel to address the long-term resolution of the final distribution of property and related assets. The distribution of property is a civil matter that is best resolved through consensus among attorneys or by a judicial order.
    - a) If officers are presented with a court order regarding distribution of property, then officers should attempt to facilitate fulfillment of the court order.

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