



# TEXAS CONSTABLE

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# So, You've Been Told "It's Civil"

## What Does it Mean When Someone Tells You "It's Civil"?

In Texas, there are two broad categories of law, Criminal and Civil. Their purpose is to deter or punish wrongdoing or to compensate a victim.

Criminal law deals with acts that are harmful to the public, local government, state or society as a whole, even if the immediate victim is an individual. Examples are murder, assault, theft and DWI. An infraction of a criminal law is called an offense. Offenses are filed and prosecuted in court by a city, county or district attorney. They are subdivided into misdemeanors and felonies. In criminal cases there is the Prosecution and the Defendant. The prosecution must prove beyond the shadow of a doubt the defendant is guilty.

Civil law deals with acts that are harmful to an individual's rights. Examples are evictions, debts that are owed, breach of contracts, property or ownership disputes and what we often call our civil "Rights". Infractions of a civil law are filed as a law suit in a civil court by the private individual who was wronged (called the Plaintiff) and against the wrongdoer (called the Defendant). Civil Suits do not require as much proof to determine a verdict. The plaintiff must only convince the court that it is "more likely than not" that the plaintiff's allegations are true. Some wrongful acts may be a criminal offense and also give rise for a civil suit.

## Who Can Help Me?

Municipal Law Enforcement, such as Burluson, Cleburne and Ft. Worth Police Departments can only investigate and enforce infractions of criminal laws. So, when a city police officer determines that no criminal offense has taken place, but you still believe you have been wronged, they will tell you "It's Civil" and there is nothing they can do for you. They will often suggest you to contact the Constable's Office or a Civil Court.

Here is why. Texas Constables and their deputies are an elite group of law enforcement that predates even the Texas Rangers. Constables have more jurisdiction and authority than most other officers in Texas and they specialize in the enforcement of Civil Law.

However, only a court may determine if an infraction of a civil law has occurred. Therefore, many times, a Constable must wait for a court to render a judgment in a civil law suit and then issue an order directing them how they may act to enforce that judgement.

Therefore, in many situations, your only recourse with a civil wrongdoing is to take that person to court, have a judgment rendered in your favor, then have that court issue an order for the Constable to enforce that particular judgment.

There are a few options for pre-judgment relief for certain situations, but those also require an order from a judge directing the Constable to take certain action until there can be a court hearing.

## Going to Court

There are several local courts that handle civil law suits. The Justice of the Peace Courts have jurisdiction up to \$20,000, County Courts are up to \$200,000 and District Court are unlimited. Each court may have exceptions for certain types of suits. It is best to contact a court to determine which one is the best one for your situation.

After you file a sworn complaint with a civil court, and pay a fee, the court will then issue a citation commanding the defendant to appear before the court on an assigned date. A copy of your sworn complaint will be attached to the citation and both will be served upon the defendant by the Constable's Office. After they have been served, a court hearing date will be set. After the hearing, either party may appeal the judgment to a higher court within a certain time frame.

## Collecting a Judgment

Suing someone is not cheap or easy. There are always fees to pay and frequently the plaintiff will find it difficult to enforce or collect their judgment.

If a defendant refuses to pay a monetary judgment, the plaintiff may pay an additional fee requesting the court to issue an order commanding the Constable to attempt to enforce the judgment. The Constable will make verbal demand for payment. If they refuse to pay, the Constable will take an inventory of the defendant's property. If the Constable finds any non-exempt property, he may seize it and sell it, giving the proceeds to the plaintiff. The problem is, most people don't have any non-exempt property. Texas allows its citizens to exempt most commonly owned property from the threat of seizure and sale. Plus, the plaintiff must pay for the storage and advertising of the property which may not sale for enough to cover the costs. Therefore, most often there is nothing the Constable can do. Typically, unless the judgment is against a corporation or a wealthy person, a plaintiff may never collect what was awarded to them in court. THERE IS NO GUARANTEE THAT PAYMENT WILL BE RECEIVED.

Another alternative to the collection of a judgment is an Abstract of Judgment. The Abstract of Judgment places a lien against any non-exempt real estate of the defendant for a period of ten years.

## Someone has Violated a Court Order

We frequently get questions about someone not obeying a court's decree or order. Most of the time, there is nothing an officer or Constable can do if someone violates an order. Examples are: a divorced parent not returning a child to the other parent, an ex-spouse not doing what a court told them to do, or not following any type of court order. Instead, you must notify the court that issued that order and ask them what can be done.

Many times, the court will issue a summons to everyone, have a hearing and determine if someone should be held in contempt of court for not following the court order. An exception to that is Protective Orders. Officers shall make an arrest immediately when a Protective Order is violated.

## Civil Stand By?

When someone wants to retrieve their property and fear there will be violence, they will ask for an officer to go with them while they get their belongings. This was once called a "Civil Stand By." Law enforcement is prohibited from doing these anymore until you have been granted a court order directing them to do so. Those court orders have very strict criteria and are limited to a predetermined list of essential property. Only with this court order may an officer or Constable assist you in retrieving your property.

*This is information only and is not legal advice. For assistance with legal issues, contact an attorney. The Constable and his office may not provide legal advice. See the Quick Reference link for Helpful Numbers.*