



EAGLE GROUP XX

2020 Edition | **Field Agent**

Compliance Training "FACT"

Purpose and Scope of FACT

The primary purpose of the **Field Agent Compliance Training (FACT)** is to develop a uniform program the purpose of which is to educate and train personnel who work in the field and who in the course of their duties, come in contact with consumers and third parties. This program was developed by **Eagle Group XX** member agencies with a dual purpose, the first purpose is to insure field agents are properly trained to perform their duties in a compliant, safe and legal manner and the second purpose is to insure the consumers and the third parties the agents come into contact with are treated professionally, fairly, and the consumer's privacy rights are protected.

The scope of the training program for all employees has been divided into four basic sections, pre-contact preparation, on site awareness, personal contact and post recovery activities.

Within these four major sections there are subsections related to repossession laws, proper appearance, attitude, voluntary and self-help recovery, confrontational avoidance, dealing with irate consumers, trespass and breach of peace. Continuing Education Training Sessions for agents are conducted, at a minimum, on a quarterly basis or as dictated by management with 6 hours annually of continuing education being a mandatory requirement. It is **Eagle Group XX** policy that in order for a recovery agent to maintain the **FACT** Credential that the agent is required to participate in the CE programs and complete the accompanying tests with a satisfactory grade.

It is the desire of all **Eagle Group XX** member agencies that clients are assured that their accounts are receiving the most professional service available in today's recovery industry and that the individual men and women representing their lending institution in the field have received the most advanced and up to date training available.

DISCLAIMER

This information is not intended to be legal advice and may not be used as legal advice. Legal advice must be tailored to the specific circumstances of each case.

Every effort has been made to assure this information is up-to-date. It is not intended to be a full and exhaustive explanation of the law in any area, however, nor should it be used to replace the advice of your own legal counsel.

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I. Pre-Contact Duties and Preparation

Repossession, the act of recovering mortgaged property covered by a defaulted security agreement, is one of the most invasive processes of the credit/collection process and requires a complete understanding of the actions involved to insure the recovery is performed in a safe, compliant and legal manner.

There are certain things that should be done upon receipt of an assignment and those seemingly minor and often boring details may make the difference between a safe and successful recovery of the mortgaged collateral or a fruitless and possibly dangerous endeavor.

Documentation:

The following items should be checked and verified prior to going into the field to recover the mortgaged property:

1. If possible review the assignment to ensure all the required documents are present including a copy of the title or a UCC 1 filing document or the vehicle title clearly identifying the lien holder as being your client and insuring that they have a valid security interest in the vehicle identified on your assignment
2. If possible review the client's notes if available and make a special note of any unusual circumstances
3. If possible verify the documents supplied by the client contain the current balance, date of last pay, amount past due and the last known verified location of the collateral (If this information is not present it is recommended the client be contacted and the information be obtained prior to working the assignment)
4. A net map obtained from one of the net map companies such as Google Earth or Map Quest and studied carefully not only to see where the address is located but to have a clear understanding of alternate and available entry and exit routes.

5. If the recovery of the mortgaged collateral is going to be by self help the telephone number of the law enforcement agency it should be reported to should be obtained

Appearance and Credentials:

When working in the field the recovery agent's appearance becomes a very important issue and if confronted by the consumer, neighbors or law enforcement personnel the agent should present a business like appearance and demeanor therefore each agency should have a written dress code for all employees and the code should be monitored and enforced on a regular basis.

Credentials:

It should be noted that any recovery agent working in the field should possess an identifying document which clearly indicates that they are an employee of the named recovery agency. This is an important item to have if the agent is stopped and questioned by any law enforcement agency or security personnel. The agent should also carry any identification issued by the "State or Municipality" which is related to licensing or bonding. These identifying documents should be carried on their person at all times when working recovery cases.

Defensive Weapons:

It is recommended that "no offensive weapons should be carried by the field agent when working a recovery assignment."

End of Section I

II. On Site Awareness

When a recovery agent arrives at the location of the mortgaged property they are seeking to recover by "self help" repossession and "situational awareness" becomes an extremely important issue. To optimize the chance of a peaceful and safe recovery there are certain precautionary things which should be part of the agents standard operating procedures. These things include but are not limited to utilizing the **SEE** process, **S**earch, **E**valuate and **E**xecute. The agent should use all their senses and most importantly their eyes and their ears to see and hear in order to be able to properly evaluate the situation. The agent should look and see things such as:

RESIDENCE

1. Location and access to the mortgaged property.
2. Visibility of the mortgaged property from windows and vantage points.
3. Persons in the vicinity of the mortgaged property.
4. Physical condition of the mortgaged property.
5. Exit routes

EMPLOYMENT

1. Location and access to the mortgaged property.
2. Security guards (stationary and mobile.)
3. Cameras.
4. Persons and/or vehicles in the vicinity of the mortgaged property.
5. Exit routes.

SOUNDS

The agent should listen for things such as:

1. People talking.
2. Dogs barking.
3. Loudness of the agent's vehicle.
4. Music or other sounds coming from structures.
5. Silence.

With the sight and sound observations **SEARCH** the agent should be able to **EVALUATE** the perimeter situation and make the decision to **EXECUTE** or back off and wait for another time or another place.

VERIFICATION

The agent should never remove a vehicle from the stationary location without first visually checking the Vehicle Identification Number and verifying it is the mortgaged property they are attempting to recover. This is a crucial step in the recovery process and even if the consumer or a third party hands the agent the keys and says "Here it is" the VIN must be checked and verified.

End of Section II

III. Personal Contact

During the course of the recovery process the agent would desire the best scenario where the mortgaged property is located and recovered with no personal contact with any person, consumer or third party. There will be times and circumstances however where the agent will encounter people ranging from the consumer themselves, relatives, neighbors, security personnel and law enforcement officers. This section of the Field Agent Credentialing Training is presented to give the agent a general set of guidelines to follow under these circumstances in order to protect the consumer's privacy rights, prevent inadvertently disclosing Non Public Personal Information (NPPI) and allow a peaceful self-help recovery of the mortgaged property. Remember to remain calm, speak and behave in a professional manner. Some courts have ruled that even a perception of threat of violence can be construed as a Breach of Peace. If you are speaking with the consumer clearly explain the situation and consumer options and if asked the agent should not claim with certainty what the creditor might do regarding reinstatement or deficiency. It is advised that the agent should not accept funds in the field in lieu of repossession.

A trained field agent should know the consumer protection laws of the state in which they are working and follow them closely.

It is also imperative that a field agent knows what constitutes Breach of Peace as the moment the peace is breached the agent loses all rights to self help repossession under the uniform commercial code.

Breach of Peace

The black letter definition of breach of peace is conduct or speech that violates the public order, disturbs the public tranquility, or has the potential to provoke violence or is likely to incite immediate public turbulence, or leads to or is likely to lead to an immediate loss of public order and tranquility. Breach of the peace further includes any violation of any law enacted to preserve peace and good order. See, e.g., *Kimble v. Universal TV Rental, Inc.*, 417 N.E.2d 597 (Mun. Ct. 1980).

Although the law varies somewhat from state to state, the general rule is that secured lenders also breach the peace if they: (1) repossess the collateral despite the consumer's objections; or (2) trespass in order to gain possession of the collateral.

Recovery agents should be familiar with the two part test many courts tend to use to determine breach of peace. (1) Was the consumer's premises entered by the creditor, and (2) if so, did the consumer or someone acting on their behalf fail to consent to the entry and repossession. Where there has been no entry there is generally no breach of peace. The law is not entirely clear as to entry into what and agency policies should be strictly adhered to regarding:

- Repossessions from carports.
- Repossessions from unlocked fenced property.
- Repossessions from employment parking facilities.
- Repossessions from posted "NO TRESPASSING" property.

Lenders and/or their agents breach the peace if they enter the borrower's home without their permission in order to gain possession of the collateral. It does not matter whether the doors or windows are locked. Nor does it matter whether anyone is home. The lender's conduct amounts to breaking and entering and creates a risk of violence.

Courts usually rule that motor vehicle lenders who open garage doors in order to claim a car breached the peace. Protecting borrower's garage as the law protects the rest of their home makes sense because homeowners expect that their right of privacy and seclusion extends to their entire home and unlawful entry into their garage also creates a risk of retaliatory violence.

If the consumer becomes aware of the recovery agent's intrusion and objects to the agent being on their property, the agent must leave or they would be considered trespassing.

The lenders duty to refrain from breaching the peace is non-delegable. The term nondelegable means that lenders are responsible for their repossession agent's conduct even if the recovery agent is an employee of a recovery agency rather than an actual employee of the lender.

Each breach of peace action is unique and must be evaluated on the specific facts of the case. Often, an experienced lawyer must evaluate the totality of the facts and circumstances rather than an isolated variable.

Based on the above definition of breach of peace which is conduct or speech that violates the public order, disturbs the public tranquility, or has the potential to provoke violence or is likely

to incite immediate public turbulence, or leads to or is likely to lead to an immediate loss of public order and tranquility. Breach of the peace further includes any violation of any law enacted to preserve peace and good order. Here are several actions which have been viewed by the courts as a breach of peace:

- *Violence or even the perception of violence.*
- *Entering a home or a garage with the door open/closed.*
- *Proceeding over the objection of anyone.*
- *Breaking a lock on a fence, gate or door.*
- *Impersonating or inferring directly or indirectly that the agent is or is affiliated with any law enforcement or a government agency.*
- *Deceptive tactics to get access to collateral.*

It is extremely important that an agent understands when there is any type of confrontation from any party and there is any impending chance of violence that the agent involved has a statutory duty to retreat.

RECOVERY LOCATIONS:

Section 9-503 of the Uniform Commercial Code authorizes secured lenders to seize possession of their collateral after the borrower defaults without judicial process if this can be done without breach of the peace. *“Unless otherwise agreed, a secured party has on default the right to take possession of the collateral. In taking possession a secured party may proceed without judicial process if this can be done without a breach of peace or may proceed by action”* The Uniform Commercial Code (U.C.C.) does not define the term breach of peace. Recovery agents should be very aware of any special circumstances which relate to recovering mortgaged collateral covered by a defaulted security agreement when the recovery is to take place on:

Employers Property: Under most contractual agreements the contract gives the mortgage holder or their legal agent the right to enter private property to recover mortgaged property. This right will stand until it is rescinded by the employer, property owner or security guards. Once asked or directed to leave if you remain on the premises you may be considered to be trespassing which would be a breach of the peace and you would subsequently lose your right to self help repossess.

Private Property: In most cases mortgaged property covered by a defaulted security agreement may be repossessed from private property. However, it is against the law for the recovery agent to go into a private building, such as an enclosed garage, or into a fenced or locked area, without permission from the legal owner of the building or locked area. Under most contractual agreements the contract gives the mortgage holder or their legal agent the right to enter the consumer's property private property as long as there is no breach of peace however a third party's private property may be another matter and the recovery agent should proceed with extreme caution.

Federal Property: Recovery agents should proceed with extreme caution when attempting to recover mortgaged collateral from any federal property. It is strongly suggested you consult with your legal counsel prior to attempting the recovery.

Posted Property: Entering premises where "NO TRESPASSING" signs have been posted have long been a questionable action. It is concluded that it may be done pursuant to the contractual agreement between the consumer and the lender or their agents as long as there is no "Breach of Peace". Placing no trespassing signs on a piece of property does not prohibit the recovery agent from entering upon those premises. However, it must be noted there can be quite a few exceptions to this scenario which might enter into the picture. If the property is posted with a closed gate, if the property is secured in any manner or if someone is present and directs the recovery agent to leave the premises may this action will change the entire scenario.

American Indian Property or Reservations: Entering upon Indian Land or Reservations can be different with each tribe and the agent should consult with the tribal authorities before entering upon and Indian land or Reservation. Be advised that illegal entry may result in all equipment being seized.

Repair or Impound Facilities: In most states a "mechanic's lien" held by any person who has done work on a mortgaged vehicle will take precedence over the lien holders security interest in the vehicle and such mechanic's lien will have to be satisfied prior to recovering the mortgaged collateral.

Collateral Used as a Primary Residence: If the collateral is being used as a primary residence such as a motor home, recreational vehicle, trailer, etc. then self help repossession may not be

allowed under the Uniform Commercial Code. Contacting the consumer and gaining consent would be the only appropriate means of effecting recovery.

Military Bases: There are no federal laws which require a consumer to surrender mortgaged property and therefore there is no requirement for a federal military installation to allow selfhelp repossession of privately owned vehicles within the installation; however, most military installations will permit discretionary repossession. The Department of the Army policy balances both the interest of the lien holder and the Government's interest in the security and the maintenance of good order and discipline on the installation property. Additionally, certain safeguards are maintained in order to protect against theft of personal property and the wrongful removal of a Soldier's property.

The Administrative Law Division of the base is delegated to review involuntary repossessions on the installation and to ensure any repossession is conducted in compliance with base policy. Prior to approving any repossession in the absence of a court order, the following criteria must be met:

- a.** The Soldier's primary residence must be on the base, or there must be reason to believe the vehicle is not otherwise reasonably accessible for repossession.
- b.** The service member must be at least 30 days in arrears in payments or has no insurance coverage.
- c.** The recovery agent must provide 24-hours notice. The following documentation (photo copies are sufficient) should be faxed to the appropriate base authorities:
 - (1) The attached Repossession Memorandum.
 - (2) Vehicle title or registration certificate reflecting existence of a lien.
 - (3) Payment history showing the amount and date of the last payment.
 - (4) Credit/sales contract.
 - (5) Authorization for the recovery agent to act as lien holder's agent in effecting repossession.
- d.** The service member's social security number and year of birth on the memorandum is not legally required, but must be provided to confirm their presence on the installation.
- e.** Repossession will be accomplished between the hours of 7:00 am and 10:00 pm.
- f.** Creditors, collection agencies, etc., seeking repossession will usually report to the Civilian Liaison Office personnel, located on base. They will in turn contact the individual in possession of the property. If the soldier is in a deployed command, the repossession process will not continue until contact can be made with the deployed Soldier.

- g.** Individuals whose property is subject to repossession will be afforded a reasonable opportunity to consult the Legal Assistance Office at (502) 624-2771 concerning the consequences of voluntary repossession. If the Soldier declines to voluntarily surrender the vehicle, repossession will not be permitted without a court order. A court order will be served on the individual in the same manner as other civil process in accordance with applicable law.
- h.** Law enforcement/military police will accompany individuals effecting repossession, either voluntarily or by self help.

Prior to attempting to recover a vehicle from a Service Member it is recommended that the agency owner, management and field agents be fully knowledgeable of the “**Service Members Civil Relief Act**” (SCRA) and have instituted a company policy related to the same.

Here is an example of such policy:

SCRA POLICY

INVOLUNTARY RECOVERY PROCEDURES WHERE THE SERVICE MEMBERS CIVIL RELIEF ACT IS INVOKED

The Eagle Group XX SCRA Policy is taken directly from accepted recovery industry training standards and as such reads:

During the course of an attempt to recover mortgaged property covered by a defaulted security agreement where there is direct contact by a recovery agent employed by our agency with a consumer, and where the consumer states they are invoking their rights under the Service Members Civil Relief Act (SCRA) the agent will immediately cease all attempts to recover the mortgaged collateral.

The SCRA states that any member of the Armed Forces, on active duty and any member of a reserve component (National Guard or Army, Navy, Air Force, Marine or Coast Guard Reserves) called to active duty is eligible for protection under the SCRA. It is further stated that this protection is extended to dependents of the covered service member to the same degree as the service member.

The recovery agent should make every attempt to obtain the following information from the service member or their dependent:

- Branch of service
- Military unit with contact information

A copy of the Service member's orders indicating dates of active service

Our agency appreciates and respects the men and women of our armed forces and it is our policy to comply with the SCRA in all ways possible.

THE CLIENT MUST BE NOTIFIED IMMEDIATELY OF THE CONSUMERS OR ANY PERSONS AFFILIATED WITH THE ACCOUNTS CLAIM TO PROTECTION UNDER THE SERVICEMEMBERS CIVIL RELIEF ACT AND ALL ACTIVITY SHALL CEASE UNTIL FURTHER NOTICE.

PERSONAL CONTACT

The following information is to provide the field agent with general procedures when making direct contact with consumers and third parties. Be advised that this is not a "MUST DO IT THIS WAY" but rather a guide suggesting ways to handle certain types of contact while following the required federal guidelines and staying in full compliance with consumer privacy protection laws. It is obvious that the best scenario is where the collateral can be recovered without making any type of contact with anyone.

1. **The Consumer (on premises):** when communicating with the consumer, the person who actually owes the debt, at the consumer's residence or their place of employment the agent should always project themselves as a professional with a responsibility to represent the client who holds the mortgage on the property in question. The agent should be able to show the consumer proper credentials and the documents authorizing them to take possession of the mortgaged property on behalf of the legal owner. The agent should never take an adversarial position but rather hold themselves out as a third party contracted to locate and recover the property. The agent should never in any way, directly or by implication, indicate to the consumer or any third parties that they are affiliated with any type of law enforcement agency or that refusal to surrender the mortgaged property will result in the consumer's arrest and/or imprisonment. If the consumer refuses to surrender the property and requests the agent leave the premises the agent should promptly comply with no further attempts to secure the mortgaged property at that time. The agent should be particularly aware of any third parties who might overhear their conversation with a consumer and take precaution to prevent this from occurring.
2. **The Consumer (off premises):** Encounters off of the consumer's property or not at their employment are termed "Road Encounters" and this type of contact with a consumer is definitely an area of high risk for the recovery agent and should be avoided if at all

possible. Any action which would indicate aggression on the part of the recovery agent should be avoided at all costs. It is suggested that if an encounter of this type cannot be avoided that the agent should lock their doors, remain in their vehicle and alert the proper authorities. If approached by the consumer it may be advised to record the encounter in a non threatening manner either using in vehicle recording equipment or a smart phone. If the agent is being pursued by the consumer or any third party the agent should, if possible and while not violating any traffic laws, proceed to the nearest law enforcement facility, phoning ahead to alert the law enforcement agency as to the circumstances. Upon the arrival of law enforcement personnel, it is recommended that the agent remain in their vehicle until approached by the officer. There may be times when a recovery agent is confronted by a consumer off premises after a vehicle has been legally repossessed. The consumer may follow the agent, forcing the agent to pull off the road or may by chance encounter the recovery agent as they proceed to take the recovered collateral to the storage facility. If at all possible the agent should not pull over. If the agent has no choice but to pull off the road it is advised that the agent remain in their vehicle, lock their doors, and call the nearest law enforcement agency. When a law enforcement officer arrives at the scene it is recommended the agent remain in their vehicle until approached by the law enforcement officer and then follow the officer's instructions. The agent should be prepared to show the officer their identification and recovery documents. The agent should explain that they possess dominion and control of the mortgaged collateral and were forced to pull over against their will. Each agency should establish their own policy as it relates to this type of situation and realize the above is merely a recommended guide. The agent should always remember that in any encounter during the act of recovering mortgaged property the priority factor should be placed on safety, the agent's, the consumer's and any bystanders'.

3. **Relatives/Third Party at the Residence:** when communicating with a known relative or a third party the agent has responsibilities under numerous consumer protection laws, including but not limited to the Gramm-Leach-Bliley Act (GLBA), The Fair Debt Collection Practices Act (FDCPA) and the Fair Credit Reporting Act (FCRA) to protect the consumer's privacy and Non Public Personal Information. There should never be any implication directly or indirectly that the consumer owes a debt or that the agent is at

the location in an attempt to recover mortgaged property. The agent should gather as much information as possible regarding the subject and/or the mortgaged property and if asked any questions it is suggested that the agent reply with the statement, "I am sorry but that information is protected under federal law".

4. **Minors at the Residence:** when communicating with a minor, either at the residence or at a third party location the agent should only ask the following: "Is there an adult present that I can speak with?" "When will there be an adult at this location?" "Is there a phone number that I reach an adult?" The agent may inquire if the consumer resides at that location and when they will be present but should never question the minor in regards to location information related to employment, contact numbers or the current location of the consumer or the mortgaged property.
5. **Language Translator:** in many cases the agent will encounter a situation where a language translator is required. The translator may be a family member or a third party and it is very important that the agent begin the conversation by asking the translator to obtain the consumers permission to discuss a debt with the translator. The agent should note the circumstances of the encounter and obtain the name and relationship of the translator to the consumer if possible and note same in their field file.
6. **Neighbors:** many times an agent will be confronted by a neighbor inquiring as to what the agent wants or what is going on when they are in the process of recovering mortgaged property. The agent should be very cautious in providing any information to the neighbor which might violate the consumer's right of privacy. In any case scenario the agent should not assume an adversarial position but rather that they have a business relationship with the owner of the vehicle and were asked to "pick it up". The agent should refrain from using words like "Repossess", "Recover" and "Seize" and under no circumstances show the neighbor any documents related to the recovery.
7. **Security:** if confronted by Private Security the agent should show proper credentials, advise the Security Officer that they are acting within the bounds of the law and under no circumstances divulge any NPPI information related to the consumer. The agent may relate information which would be public record such as " My client is A1 Bank who holds a valid mortgage on a 2013 Ford F150 VIN 123A456B7899 titled to a John Doe and as their agent I am exercising their rights under the Uniform Consumer Code" as all of

this information would be public record with the filing of a lien and an understanding of written statutes.

8. **Police:** when an agent is confronted by a commissioned law enforcement officer there should be total cooperation. The agent should show the officer their credentials and explain what their activities relate to without divulging the consumers protected NPPI. If the officer requires specific information the agent should not argue with the officer but rather advise the officer that they are prohibited from divulging that information under federal law however if the officer wishes to accept the responsibility and directly orders the agent to provide that information the agent will comply with the officer's order. The agent should keep very careful notes on any encounter with law enforcement and if possible obtain the officers department, badge number and name.
9. **Other Third Parties:** in many cases an agent will be recognized by an individual who is aware of the agent's occupation and will inquire as to why the agent is at a consumer's residence or employment. The agent should never, under any circumstances, acknowledge that they are trying to recover the consumers mortgaged property or question the acquaintance, directly or indirectly, regarding the consumer's activities or whereabouts.
10. **Leaving Written Messages:** There will be times when an agent will decide to leave a written communication at a residence requesting contact from the consumer or the third party residing at the address. The agent should be very careful that the message does not violate the consumers right to privacy and the message itself or the document it is left on in no way refers to a debt, a repossession or appears to be a legal document. It is recommended the message not be left on any type of document which might have the recovery agency's name, address or listed phone number. It is also recommended that there be no reference made to an account, claim or case number and there be no mention of the mortgaged collateral. Recommended language is simply: (Date and Time)... please contact John Doe at AC 405-943-9600 regarding a personal business matter. You may or in some cases may not wish to put the consumer's name on the document. It is also recommended that this same message be used for telephonic and electronic messages.
11. **Attorney Representation:** There will be occasions when a field agent is informed either directly by the consumer, in person or through other means of communication

(telephone, email, text, etc.) that they (the consumer) have obtained attorney representation regarding the repossession of the property in question. The attorney representation may be a prelude to the filing of a chapter 7 or 13 bankruptcy or may relate to a dispute between the consumer and the lender. Regardless of the circumstances once the agent is informed of attorney involvement the following procedure is recommended:

- A) Immediately cease all attempts to repossess the collateral
- B) Attempt to obtain the name, address, and phone number for the attorney C) Advise the client of the situation providing them with the attorney's contact information
- D) Use good judgment and follow company policy on how to proceed

Under the Fair Debt Collection Practices Act once you have been advised the consumer is represented by an attorney all future communications must be through the consumer's attorney.

CONFRONTATIONAL GUIDELINES

Simple guidelines to follow when confronted by the consumer or third parties:

DO...

- **Know Who You Are Speaking To**

It is a violation of numerous privacy laws to divulge any financial information to any third party. You may speak with the spouse, the consumer's attorney, any co-maker on the account.

- **Identify Yourself and State your Business**

Be prepared to show proper credentials and paperwork in regards to the account. Your credentials should consist of a photo ID with your name and the name of your employer clearly visible. Your paperwork should be complete with all necessary data to enable you to clearly explain to the consumer why the vehicle is being repossessed.

- **Know the Signs of Anger**

Pay close attention to your surroundings and the consumer's demeanor. Expect the unexpected. Stay in condition yellow. Recognize the signs that indicate the attitude of the consumer is becoming offensive and prepare for de-escalation on your part.

- **Explain the Situation and Options**

Be familiar with the laws which allow you to repossess and be able to express the various options to the consumer. ie. replevin, civil charges, etc.

- **Be A Professional**

Speak and behave like a professional. The way you are dressed, proper language and your demeanor will insure a better chance of success without confrontations.

- **Remain calm**

Realize this may be a very embarrassing situation for the consumer and your job is to deescalate and solve problems. Explain the situation in a calm and professional voice and control the situation.

- **Know What Constitutes "Breach of Peace"**

The moment you Breach the Peace an Ohio court has ruled your right to repossess is invalid and any and all your actions from that instant forward will fall under the Fair Debt Collection Practices Act.

- **Know the Consumer Protection Laws**

Be familiar with the various laws which protect the consumer and their privacy. FDCPA, GLBA, FCRA, HIPAA, TRPPA, Bankruptcy Act Chapter 7 &13, Service members Civil Relief Act

Know your state consumer protection laws!

IF POSSIBLE, AVOID ANY TYPE OF CONFRONTATION WITH ANYONE DO NOT...

- Identify yourself to the consumer as any person or thing other than whom you are.
- Identify yourself as a recovery agent to any third party.
- Ask any third party to assist in locating the specific vehicle you are attempting to recover.
- Discuss the debt or divulge the purpose of your visit to any party other than the consumer, their spouse or a co-maker on the debt.
- Talk down, threaten or attempt to intimidate any person.
- Threaten any person with the possibility of going to jail or prison.
- Verbally abuse or physically touch anyone.
- Continue efforts to recover the collateral after you have been told to leave the premises.

- Request the aid of law enforcement personnel for assistance during a repossession attempt.
- Attempt to take the vehicle over the consumer's or any third-party protest.
- Carry or indicate that you are carrying any type of offensive weapons.

THE CONSUMERS RUNS

You confront the consumer and demand surrender of the vehicle. The consumer ignores your demand and gets into the vehicle, starts it and you realize they are preparing to drive away...

HOW DO YOU RESPOND?

- A. Stand in front of the consumer's vehicle and tell them to stop...
- B. Jump in your vehicle and position it so the consumer is blocked in...
- C. Get in your vehicle and prepare to follow the consumer even if they drive at a high rate of speed...
- D. Pull a gun and attempt to shoot the tires in order to flatten them and prevent the consumer from driving away...
- E. All of the above
- F. **None of the above**

WHAT DO YOU DO? IT IS VERY SIMPLE: LET THEM GO! ANOTHER TIME... ANOTHER PLACE...

CONFRONTATIONAL AVOIDANCE TECHNIQUES

Many times a field agent must deal with anger in the people they come into contact with. It is imperative that the agent maintain control of the situation and avoid any actions which could lead to violence or any type of a "Breach of Peace". These few basic mitigation techniques, used by professional asset recovery specialists, should be recognized, mastered in order that they might be utilized when needed.

FOGGING...

Disarm your adversary by agreeing with them whenever possible with whatever truth, generalization or probability they present. Always remember that in all possibility there is some truth, even though greatly exaggerated in what they are being said. **ECHOING...**

Echoing what your adversary says lets them know that you do not intend to argue or fight over differences. Always remember that it takes two people to argue, and if you refuse to participate in the conflict, you will have a greater control over the situation.

DISARMING...

Always give your adversary the opportunity to reconsider and retract any rash or threatening statement. You may accomplish this maneuver by saying, "Excuse me, I don't think I quite understand what you just said." An adversary will usually not repeat their statements and it allows for a pause in the conversation which may cool things off.

ISOLATING...

You may be able to calm a potentially volatile situation down by talking to your adversary in private. Many times when deprived of an audience a person will change their attitude and problems can be resolved much easier.

STEPPING...

In many instances stepping out of the ring is the only way to calm an adversary down. This tactic lets your adversary know they have possibly gone too far. A good statement to use is, "I am finding it very difficult to communicate with you right now and if we are unable to communicate we certainly cannot resolve this problem. Maybe you need to deal with someone else or discuss it at another time. Get out of the ring and there can be no fight.

End of Section III

IV. Post Recovery Responsibilities

1. Getting vehicle directly to the secured storage facility should be the agent's primary goal once a vehicle has been recovered. Even though the general consensus is that repossession is complete when the recovery agent has dominion and control and has removed the collateral from the debtor's premises the safety factor appears when the vehicle is secured on your property. The recovered vehicle should be taken directly to the storage facility with only necessary and/or required stops to insure the vehicle is secure.

2. Reporting the recovery to the proper authorities is an essential and required part of the recovery process and is recommended that prior to the actual recovery of the mortgaged property that the agent verify what law enforcement agency should be notified and place that law enforcement department's telephone number in their phones to enable speed dialing once the vehicle has been recovered. It is also recommended that the agent notify authorities of the recovery even if it has been a voluntary surrender. This short communication memorializes the agent's actions if it is required at a later date.

3. Responsibility for safekeeping of personal property must be a primary concern for the recovery agency and the field agent, therefore policy must be established and followed to insure a consumer's property is properly protected from the time the agent takes possession of the collateral until the consumer claims the property.

It is recommended that all employees conducting inventory of personal property protect themselves by wearing protective gloves, clothing and in many cases breathing masks.

A primary tool for safekeeping personal property and maintaining a proper chain of control is the **"Personal Property Inventory"**. This document should be completed as soon as possible after securing a vehicle and witnessed by at least one person other than the agent. The document should be filled out in detail showing the complete contents including the glove box, center console and trunk where applicable and accessible. It should be noted if any storage areas are locked and if there is no personal property in the vehicle, even in cases of a voluntary surrender, the same should be noted on the **"Personal Property Inventory"** sheet. This sheet should be completed on each vehicle recovered even if there is NO PERSONAL PROPERTY IN THE VEHICLE. The completed form indicating that there was no personal property in the vehicle is your proof that an inventory search was performed.

In cases where contraband items such as drugs, firearms, explosives, etc. are found the items should be noted and turned over to local law enforcement agencies with the condition report clearly indicated the time, date and agency retrieving the property.

In many cases agent conducting inventory of personal property will find HIPPA protected property. This property is easily defined as "any item or document which is in any way medically related". This property should be kept in a separate container and properly sealed to protect the consumer's medical privacy.

ACCIDENT PROCEDURES

Each agency should establish clear and concise procedures for the action a field agent is required to take in the case they are involved in an accident.

These procedures should include but not be limited to the following:

Be Prepared

No matter how careful you are accidents can happen. The best way to make the aftermath as painless as possible is to have all the required documents on hand. Before going in the field to work an assignment the agent should make sure they have the vehicle registration and insurance papers are current and easily accessible. The agent also should make sure they have their driver's license and that it is current.

Perform a Safety Check

In the event of an accident the agent's first obligation is to insure all people involved safety by checking visually and verbally to see if everyone is alert and physically okay. If anyone seems groggy or unsure of his or her response or if there are any visible injuries the agent should call 911 for medical assistance. Many injuries can't be seen, and the shock of an accident can delay symptoms. To ensure the safety of everyone involved, it's better to be safe than sorry.

Move to a Safe Location

The agent and all others involved in the accident should move to the sidewalk or shoulder of the road as soon as possible following an accident. If the damage to the vehicles is minor and the accident is straightforward, you can move the vehicles to the shoulder, as well. But if there are any injuries involved or you have any questions about the safety of driving the any of the vehicles, leave it where it is-even if it's blocking traffic. The agent may also want to leave the vehicles as is if there are questions about who's at fault. No one wants to be the cause of a traffic jam, but it's important to give the police the evidence they need to do their jobs. As you wait for the police, use flares to show other drivers that you're stopped and stay as far away from the flow of moving traffic as possible.

Call the Police—Call Your Employer

Even if it seems like the damage is minor, calling the police is crucial to get a report on record. You should also call your employer while you're on the scene. That way, your employer can tell you exactly what they want you do under the given circumstances, They may desire for you to call the insurance agent which can save you from going back and forth between the police and

your insurance agency in the days following the accident. You should also avoid discussing fault when going over the facts with the other driver. Only speak with your employer, your lawyer and the police about the details of the collision. Also, do not sign any statements or promise to pay for any damages without first consulting your employer and your agency's lawyer.

Exchange and Obtain Information

When you have finished filing your report you should exchange contact and insurance information with the other driver. The most important information includes:

- Full name and contact information
- Insurance company
- License plate number
- Type, color and model of vehicle
- Location of accident
- Full names and phone numbers of any witnesses
- The name of investigating officer and the law enforcement agency they are employed by
- Photographs of all vehicles involved
- A map indicating direction of travel and impact points of all involved vehicles

End of Section IV

Continue to the Final Exam