

**Purpose**

To establish procedures and guidelines for the recording, service and maintenance of Court Process pursuant to the Annotated Code of Maryland.

**Policy**

The Cecil County Sheriff's Office is responsible for the prompt and effective recording, service and maintenance of all Court Process received.

**Procedures**

Civil Process Unit Personnel shall:

- 1) Review, record, and prioritize all civil process documents upon receipt.
- 2) Maintain a "Revenue Account Log" and associated transaction records in accordance with agency procedures.
- 3) Provide prompt service of all civil process.
- 4) Confirm wanted/warrant status prior to attempted service.
- 5) Record all service and attempts on agency forms and in CAD system.
- 6) Provide disposition and appropriate "Sheriff's Return" results for all legal process.
- 7) Ensure that all service attempts have been exhausted before returning any unserved civil process.

**Operational Procedures for Civil Process**

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Section 1: Receiving and Processing of Legal Process

1. During the normal course of duties each day, a deputy will obtain all legal process from the court clerks, for service by the Sheriff's Office.
2. All legal process will be promptly delivered to Civil Unit personnel for recording and entry into the agency CAD. The processing of all legal documents will be done in accordance with established Agency guidelines.

3. Civil Unit personnel will receive and sort all legal process for logging into the agency CAD and applicable electronic spreadsheets. All process will be stamped for date and time received, and whether or not there is a check included for service.
4. Legal process will be logged in the agency CAD system to include:
  - a. type of paper received.
  - b. the case number on the paper.
  - c. the issue, expiration, and court date of the paper.
  - d. the plaintiff's name and address.
  - e. the defendant's name and address.
  - f. other persons to be served (if appropriate)
  - g. for checks – the check stamp for the check number, and amount of the check.
5. All legal process with checks included for service shall be removed from the process and entered into the Check List Spread Sheet in Excel. This computer entry will indicate for each paper:
  - a. issue date of paper.
  - b. expiration date of paper.
  - c. paper number assigned by the CAD.
  - d. court case number.
  - e. check amount.
  - f. check number.

Note: All legal process received from a Government entity will be exempt of service fees.

6. All checks for process service and a CAD report of all daily monies received will be forwarded to the Administration for quality control processing.
7. All civil process will have an "Attempted Service" sheet attached before the process is assigned to a deputy for service.
 

Exception to the "Attempted Service" sheet are:

  - a. summons and subpoenas for law enforcement officers.
  - b. employee of the Cecil County Sheriff's Office
  - c. Summary Ejectment (Rent) papers that require "posting"
  - d. Orders/Notices to be posted on the Circuit Courthouse bulletin board.

## Section 2: Civil Process Unit Supervisor

1. All civil process received for service by the Sheriff's Office shall be the responsibility of the Civil Process Unit Supervisor; to include but not limited to:

- a. accuracy and completeness of information received, regarding name, addresses, court dates and times, return dates, case numbers, and necessary signatures of Court officials.
  - b. properly attached “Attempted Service” sheets.
  - c. geographical assignments for attempts of service.
  - d. priority of service.
2. The Civil Process Unit Supervisor will ensure that the maximum effort is exerted to serve each civil paper before the expiration date.
  3. The Civil Process Unit Supervisor will be responsible to periodically review all civil process and to ensure that timely returns are made on all papers. Incomplete or improper returns on any process will be brought to the attention of the Civil Process Unit Supervisor, who will ensure that the return is completed or corrected by the Deputy who made the return.
  4. The Civil Process Unit Supervisor will serve civil process received from the various courts, and make appropriate returns as required.

### Section 3: Civil Process Deputies

1. All Deputies assigned to serve civil process shall attempt to serve all civil papers assigned to them by the Civil Process Unit Supervisor as appropriate.
2. All Deputies, after having made an attempt of service, will make the appropriate entries on the “Attempted Service” sheet and CAD system, indicating the date, time of day, and the Deputy making the attempt, and any notes that correspond to the attempt.
3. Deputies will make every reasonable effort to serve the process assigned to them. Deputies will be responsible to make the appropriate return on the process indicating “Serve” or “Non-Est”.
4. The daily activities to include the number of papers served, attempted, and Non-Est; will be reported on a Monthly Civil Unit Activity Report SO-68, by each Deputy. The SO-68 will be forwarded to the Civil Process Unit Supervisor at the end of each month.

### Section 4: Methods for Service of Process

1. Service of all legal process shall be accomplished in compliance with the Maryland Rules of Procedure.
2. All criminal process to include but not limited to all show cause orders and subpoenas shall be personally served to the person (s) named on the document.

3. All civil process involving family issues (i.e. child support, visitation, paternity, etc.) shall be personally served to the person named on the document.
4. If that person (s) cannot be found prior to the Court Return Date, the document will be returned to the court as “Non-Est”. A Non-Est return must state, in legible writing, the reasons why the document was not served.
5. In all civil process, every attempt should be made to serve the person named on the document. If not located, the listed exceptions to personal service of a document are:
  - a. as authorized by instructions on the process or on an accompanying document.
  - b. when the person named is under disability, then both the disabled person and their guardian are served.
  - c. when the person named is a juvenile, then the parent or legal guardian may be served.
  - d. when the document is a civil matter and not involving family issues.
6. Information on the process shall be read to the person named on the process, informing the person of the type of paper being served, the date, time, and location for any court appearances, and a copy of the process must be left with that person.
7. When a paper is to be served on a company or corporation, determine the name and job title of the person served, and include this information in the return.
8. “Court Orders” are to be read in their entirety when served. Responsibility for complying with the Order lies with the person served.
9. Legal process may be served everyday of the week including Sundays and holidays, with the **exceptions** of, which **may not** be served on a Sunday or holiday:
  - a. Warrants of Restitution (evictions)
  - b. Writ of Execution
  - c. Writ of Replevin
  - d. Writ of Dstraint (or Distress)
  - e. Writ of Possession
10. Deputies will make attempts to verify ownership at all times prior to the levy/seizure of any property pursuant to a court issued Writ of Execution that directs the Sheriff to levy or seize property for a judgment owed to the plaintiff.

## Section 5: Attempts on Civil Process

1. Deputies will make attempt to locate the person named on the civil paper. This shall include but not limited to:
  - a. checking the address given.
  - b. checking computer based records/references
  - c. checking Motor Vehicle Administration computer system.
  - d. checking with neighbors.
  - e. checking with the plaintiff, attorney, or issuing court.
2. All attempts at service shall be recorded legibly on the “Attempted Service” sheets attached to the papers and the agency CAD system. Attempts will note the date and time of the attempts, the Deputy that attempted service, and appropriate notes pertaining to the attempt (i.e. no answer; left note, vacant house).
3. Other pertinent information to assist in the service of the paper, or any identifiable hazardous conditions, should be noted on the attempt sheet (i.e. large dog, warrants on file, evading service).
4. In the event that the civil paper is returned to the court as “Non-Est”, then the “Attempted Service” sheet and agency CAD system will show service attempts of the document.
5. Civil process service outside the boundaries of the State of Maryland is prohibited.

## Section 6: Sheriff’s Returns to Court

1. Once disposition is determined on a document, the Sheriff’s return shall be completed. The return shall state:
  - a. whether the document was “served or Non-Est”
  - b. if the document was served, the following information shall be included in the return:
    - (1) date and time served
    - (2) the name of the Deputy serving the document followed by the Deputy’s CCSO identification number followed by a backslash and the name of the Sheriff.  
**Example: Dfc John Smith#0123/Sheriff’s Name**  
**Due to limited space on rent papers, the Deputy’s initials and legible ID number and date posted are all that will be required.**
    - (3) to whom the document was served
    - (4) the method of service (personal, or by other means in accordance with special instructions)
  - c. if the document was executed, the following information will be included in the return:
    - (1) levied as per schedule; or
    - (2) Nulla Bona (no goods found); or

- (3) Replevied as per schedule; or
- (4) Eloigned, meaning “unable to locate the goods”

2. If the document was not served, the Sheriff’s Return to the court shall state:
  - a. the date the Non Est was determined
  - b. the reason(s) why the document was not served
  - c. the name of the Deputy making the return. Refer to Sec.6 1(b)(2)

**“Time expired before service could be made” is not an acceptable return on civil process.**

3. In the event the document does not have a section for the Sheriff’s return for service or Non-Est, the Deputy shall type or legibly print a return, complete with information set out in sub-sections 1a through 1c, or sub-section 2 of this section. Also note listed examples below:

Examples:

I certify that on this 4<sup>th</sup> day of June 2016, I served John Doe a copy of this Summons and all supporting documents.

Dfc John Smith#0123/Sheriff’s Name

I certify that on this 4<sup>th</sup> day of June 2016, I was unable to locate or make contact with subject for service.

Dfc John Smith#0123/Sheriff’s Name

4. Process from other courts and/or from jurisdictions outside the boundaries of the State of Maryland may include an “Affidavit of Service” to be filled out by the Deputy serving the process. Completion of this affidavit will include:
  - a. the Deputy’s name making service
  - b. date, time, and place of service
  - c. the person served
  - d. the method of service (i.e. personal; posted)
  - e. a list of the documents served
  - f. certification of a Notary Public or Clerk of the Court
5. This affidavit will be completed by the Deputy, along with the Sheriff’s Return on the process. The affidavit will not be separated from the process, and will be filled out completely, legibly, and correctly, and returned with the document for which it was issued.
6. If any return is found to be insufficient for any reason, the document will be returned to the Civil Process Unit Supervisor, to have any corrections or additions made. All returns must be legible, complete, and correct in form.

## Section 7: Out-Processing of Civil Process

1. After receipt of all returned process, Civil Unit personnel shall ensure all documents are logged out of the CAD to include all tracking of service attempts. This information will include:
  - a. whether served or Non-Est; if Non-Est, the number of attempts and the reason for the Non-Est.
  - b. date served, or Non-Est.
  - c. name of Deputy making the return. See Example in Sec 6 (b)(2).
2. Process that included a check when received requires additional information to be entered into the Excel Spread Sheet List, noting whether the process was served or Non Est and the corresponding date.
3. Civil Unit personnel will retain a copy of all Non-Est process that was received with a check for service payment. A copy of a CAD system receipt will be printed and retained with the service document for the purpose of reimbursement of fees to the plaintiff. Civil process excluded from reimbursement shall not be included.
4. After appropriate computer entries for all process, Civil Unit personnel will separate all District Court, Circuit Court, and "Other Court" documents for return to the court of origin. "Other Court" documents shall be mailed; District Court and Circuit Court documents will be placed in receptacles designated for these courts.
5. A deputy assigned to the District Court and Circuit Court, during the normal course of duties each day, will retrieve all legal process from their receptacles, and return the process to the respective courts.

## Section 8: Reimbursements/Disbursements for Process

1. This section shall apply only to civil process which included checks for service.
2. Reimbursements/Disbursements are processed on a monthly basis. At the end of each month, Civil Unit personnel will print out an excel report indicating a list of process served and Non-Est for the month.
3. Civil Unit personnel will then take the excel report and copies of the served and Non-Est papers to verify all entries.
4. Once that is complete, a civil refund list is compiled for the month and a voucher is prepared for each reimbursement (Non-Est paper). These vouchers are signed by the preparer and the Director of Law Enforcement and forwarded to the County Finance Department for disbursement.

5. A memo is then prepared to the County Finance Department for a transfer of funds for all served papers for that month for the County (Revenue).
6. Copies of all documentation (i.e. excel report, civil refund list and reimbursements/disbursement lists) will be retained in the civil disbursement file for that month.

Section 9: Procedures for Sheriff's Sales

1. On the day of the scheduled Sheriff's Sale, the Civil Process Unit Supervisor, or the assigned Deputy, will obtain a Sheriff's Sale folder from the appropriate Civil Unit personnel member, containing the following papers for the scheduled sale:
  - a. copy of the original Writ of Execution.
  - b. copy of the property levied upon (schedule).
  - c. copy of the advertisement of the sale.
  - d. "Bill of Sale" forms and carbon paper.
  - e. letter from the plaintiff requesting the sale.
  - f. "Purchaser's Affidavit" forms (for real property sales)
2. The assigned Deputy will report to the sale location before the scheduled time, and make contact with the auctioneer, and the plaintiff or plaintiff's attorney, if present.
3. At the time of the sale, the Deputy will act as the authorized agent for the Sheriff, representing the authority to sell the levied property. The Deputy may reject any offered bid in the sale if the bid is unconsciously low, cancel the sale, and offer the property for sale at a later time. The Deputy will also act as conservator of the peace.
4. The Deputy will stand by and observe the sale proceedings. After the levied property has been properly auctioned off, the Deputy will execute a Bill of Sale to each purchaser, for each item purchased at the auction. The Bill of Sale will include:
  - a. the purchasers full name, address, and phone number. This information shall be obtained from a valid form of identification presented by the purchaser.
  - b. complete description of the item(s) or property purchased.
  - c. the amount that the purchaser paid for the item(s).
  - d. how the purchaser paid for the item(s);
    - 1) cash
    - 2) check, including the check number and bank origin
    - 3) or other form of payment
  - e. the Deputy's signature and identification number.

If the Sheriff's Sale is for "real property", the Deputy will also provide a Purchaser's Affidavit for the purchaser to fill out and sign.



5. The Deputy will retain all original copies of the Bill of Sale, and Purchaser's Affidavit, and give the carbon copies to the purchaser(s). The Deputy will then collect payment from the purchaser, in accordance with the Terms of Sale as stated in the advertisement.
6. After completion of the sale, the Deputy will return all original copies of the Bill of Sale(s), and Purchaser(s)'s Affidavits, along with the proceeds of the sale to the Civil Unit personnel.
7. For "real property" sales, the proceeds and deed of the sales are held until after the ratification and settlement date, which is usually held within 60 days of the date of the sale.

Section 10: Types of Papers

1. **Writ of Summons** – paper requires the person served to answer in writing questions contained in the papers he was served, and file the written answers with the court within a specified period of time.
2. **Summons or Subpoena** – paper requires the person served to appear in court on a specified date.
3. **Subpoena or Summons Duces Tecum** – paper requires the person to appear in court on a specified date with any documents, records, payroll, etc.
4. **Show Cause Order** – paper directs the person served to answer to the court why he/she did not do what the court ordered them to do. This paper may require either a written answer or personal appearance on a specified date to answer.
5. **Order** – paper requires the person served to respond as directed.
6. **Injunctions** – court order directly cease and desist of an action pending a specified court hearing.
7. **Statement of Claim** – (Complaint & Summons) paper issued by the court at the request of a plaintiff filing for payment of a debt by a debtor.
8. **Summary Ejectment** – (Landlord's Complaint for Repossession of Rented Property) paper issued by the court on behalf of a landlord directing the tenant to appear and show cause for failure to pay rent.
9. **Supplementary Proceedings** – (Oral Examinations or Request for Order Directing Defendant to Appear for Examination in Aid of Enforcement of Judgment) paper directing a defendant to appear in court on a specified date to answer questions as to assets owned. A plaintiff may have the assets levied upon or seized if the defendant fails to pay the debt.

10. **Breach of Lease** – similar to a Summary Ejectment, paper is issued for a landlord-tenant case which involves a breach of lease.
11. **Warrant of Restitution** – (Eviction Notice) paper directs the Sheriff to evict the tenant from rental property and return it to the custody of the owner.
12. **Writs of Execution (Fi-Fa's or Fieri Facias)** – paper directing the Sheriff to levy/seize property of the defendant in equal value of the amount of judgment owed to the plaintiff. Further action can be taken by the plaintiff after the Sheriff has attached the defendant's property by going to Sheriff's Sale (discussed in Sec. 9).
13. **Garnishment of Wages** – (Attachment of Wages or Wage Attachment) paper served on the defendant's employer and directs the employer to withhold a certain percentage of monies from the defendant's paycheck to satisfy the judgment owed to the plaintiff.
14. **Garnishment of Property** – (Attachment on Property or Property Attachment) paper served on a bank in which the defendant has savings and/or checking accounts and requires the bank to remove money in the amount of the judgment owed to the plaintiff.