MONROE COUNTY SHERIFF'S OFFICE
General Order

CHAPTER: 057-B		**TITLE:** Civil Process
EFFECTIVE DATE: July 24, 2013	**NO. PAGES:**	**REVIEWED/REVISED:** February 2, 2026
 **Sheriff of Monroe County**		**RESCINDS:**

I. PURPOSE: The purpose of this directive is to establish guidelines and procedures for civil process.

II. DISCUSSION:

The Sheriff is responsible for serving process originating in the Supreme Court, Circuit Court, County Courts, Board of County Commissioners, local government code enforcement boards, and other governmental agencies as may be provided by law. He is required to serve such other process as may be directed to him and come into his hands for execution in his county. Witness subpoenas may be served by any person who is not a party, and who is not less than eighteen (18) years of age. Proof of such service should be made by affidavit of the person making service if no served by an officer authorized by law to do so. Florida Statute 30.15, Florida Statute 92.151, Fla. R. Civ. P. 1.410 (d).

The primary purpose of the service of process is to give a defendant notice that a legal proceeding has been instituted against it. The process advised the defendant of the nature of the action brought against him and also vests jurisdiction in the Court that issue the process. Process is the means by which a Court obtains jurisdiction in a cause to determine controversies involved therein, and to enforce its orders against parties involved. Chapter 48, Florida Statutes, governs process and service of process.

Direction of Process: Summons, subpoenas and other process in civil actions run throughout the state and all process except subpoenas shall be directed to all and singular the Sheriffs of the state.

Process may be served by any sworn law enforcement member of the Office or by any other member designated by the Sheriff.

There is a difference between serving enforceable and non-enforceable process:

Non-Enforceable process/writs: the Deputy is responsible for service/delivery of process but is not required to take any additional action. This includes summons, notices, witness subpoenas, subpoena duces tecum and other process that simply requires service. Individuals other than the Sheriff may serve non-enforceable process.

Enforceable process/writs: the Deputy is required to take some additional action against a person or thing beyond service/delivery of process. Only the Sheriff can serve and execute enforceable process.

III. POLICY AND PROCEDURE:

Duties and Responsibilities

A. Deputies serving civil process do so in the name of the Sheriff, thus the Deputy and Sheriff are held responsible for service and only they can be penalized. Any false return on any writ may subject the Sheriff to an action for damages by any person injured thereby. Neglect or refusal to execute and return any process may constitute a crime committed by the Sheriff.

B. Deputies shall never argue or discuss the merits of the case, never offer legal advice under any circumstances, or recommend any attorney. This conduct may subject the Deputy and the Sheriff to criticism and censure.

C. The Deputy shall read each writ and become familiar with its contents, especially dates, times and requirements imposed by the writ on the person being served.

D. After completing the service, the Deputy shall sign and complete the return of service. The writ is then ready to be returned to the Court of issue. This return should be returned to the Court together with the original process.

E. Each return shall be signed individually by the Deputy who made the service. This includes process with more than one defendant where more than one Deputy obtains service on the defendants. Each Deputy who makes service shall sign the return as to the defendants he has served.

F. Powers of Sheriff when serving process issued by Florida Courts:

    1. The process served by the Sheriff is the command of the Court issuing the writ, and the command of the Sheriff serving the writ. The Sheriff will be protected in the service of any process which is valid on its face.

    2. Persons are subject to punishment for obstructing the Sheriff in the service of civil process, as well as for obstructing criminal process or resisting arrest. *See* F.S. § 843.01 and 843.02.

G. Failure To Serve Process - If the Sheriff fails to serve process in the manner provided by law, or if he should fail to make proper return, he may subject himself to an action for damages by any party injured thereby.

Service and Return of Civil Process- *See* Chapter 48, Florida Statutes

A. Form: proper process must contain the name and signature of the appropriate Clerk of Court, or issuing Judge, the Seal of the Court, a heading that includes the issuing court, the parties to the action and the case number. *See* Fla. R. Civ. P. 1.070.

B. Time for Service: service shall be effectuated as soon as possible and within a reasonable amount of time once received by the Sheriff, unless otherwise stated on the process. Generally, service should be effected between 7 a.m. and 11 p.m. The Sheriff may not serve process on Sunday without special authorization such as a court order or by statute.

C. Manner and types of Service:

    1. Service of original process is made by delivering a true copy of the complaint, petition, or other initial pleading or paper, with the time and date of service and signature of Deputy thereon, to the person to be served by, which is known as personal service, or by substitute service.

*If there is any variance between the copy served and the actual process such difference should be noted by the deputy serving the process and, if such difference cannot be corrected before service, it should be documented on the deputy's return, so the court can make a legal determination of any such defect.

2. If a person is served as stated herein, it is not necessary to show or read the original process to them.

3. Do not leave the original process with the person served, it must be returned to the Court.

4. The Deputy shall place, on the first page only of at least one of the processes served, the date and time of service, his or her initials or signature and identification number.

5. Types of service: Personal, Substitute, Posting, Non-Service, Drop Service

    a. Personal Service: is complete upon delivering the process to the person named for service

    b. Substitute Service: *see below*

    c. Posting: can only be done if authorized by Florida Statute, *see*
        i. § 48.031(3)(b) – Criminal Witness Subpoenas
        ii. § 48.183- Action for Possession of Premises
        iii. § 48.184- Unknown Party in Possession
        iv. § 83.22- Removal of Tenant
        v. § 78.065(2)(c)- Replevin- Order to Show Cause
        vi. § 197.522(2)(a)- Application for Tax Deed

    d. Non- Service: when a person cannot be served despite due diligence

        i. Did Sheriff actively try to locate the person to be served? Complete diligent search?

    e. Drop service: disfavored but can be done if person refuses to accept service and deputy identifies the individual to be served, identifies themselves and summarizes the contents of the service

D. Types of Other Service/Substitute Service:

1. Home:

    a. Substituted service at the usual place of abode is accomplished by delivering a copy thereof to the usual place of abode of the person named in the process and leaving a copy thereof with a copy of the complaint, petition, or other initial pleading or paper with any person residing therein who is 15 years of age or older and informing such person of the contents.

2. Spousal Service is accomplished by service the spouse if:

    a. the spouse is not an adverse party in relation to the person sought for service;
    b. the spouse is still legally married to the person sought for service;
    c. the spouse still resides with the person sought for service; and
    d. the spouse requests (accepts) the process when not a party to the case (not a co-party with person sought for service); but if the spouse is a co-party, acceptance is not required.

3. Service on a Minor who has never been married shall be served: *See* § 48.041

    a. By serving a parent or guardian of the minor.
    b. When there is a legal guardian appointed for the minor, by serving the guardian as provided for in Florida Statute § 48.031.
    c. By serving said process on the guardian ad litem or other person, if one is appointed by the Court to represent the minor. Service on the guardian ad litem is unnecessary when the guardian ad litem appears voluntarily or when the Court orders them to appear without service of process on them.
    d. In delinquency and dependency cases, by serving a copy on the minor, as an adult, and additional copies on the minor's parent, and/or legal guardian, if one has been appointed.

4. Service on an incompetent shall be served: *See* § 48.042

    a. By serving two copies of the process to the person who has care or custody of the incompetent; or
    b. When there is a legal guardian appointed for the incompetent, by serving the guardian as provided in Florida Statute § 48.031
    c. By serving said process on the guardian ad litem or other person, if one is appointed by the Court to represent the incompetent. Service on the guardian ad litem appears voluntarily or when the Court orders him to appear without service of process on him.

5. Service on the State - When the state is sued, process against the state shall be served on the State Attorney or an assistant State Attorney for the judicial circuit within which the action is brought and by sending two (2) copies of the process by registered or certified mail to the Attorney General. *See* § 48.121.

6. Service on State Prisoner – must personally serve prisoner. *See* § 48.051.

7. Sheriff, a party- Sheriff's may accept service when they're a party and may serve codefendants in the case

8. Service on Partnerships- Service against a partnership shall be served on any member thereof and is as valid as if served on each individual member. However, to bind the individual assets of the members of a partnership each member of such partnership must be served. If a partner is not available during regular business hours to accept service, on behalf of the partnership, he may designate an employee to accept such service. After one attempt to serve a partner or designated employee has been made, process may be served on the person in charge of the partnership during regular business hours. *See* § 48.061.

9. Corporations- service should be made on the highest officer of such corporation that may be found in the county, such as president, vice-president, director, secretary, treasurer, cashier, general manager, and as far down as business agent or resident agent. Should a lower officer be served, the return must state which officer of the corporation was served and his title and that he was served in the absence of higher ranking officers. *See* § 48.081 & § 48.091.

10. Service on Public Agencies and Officers- Process against any municipal corporation, agency, board or commission, department or subdivision of the state or any county which has a governing board, council, or commission or which is a body corporate, shall be served on the president, mayor, chairman, or other head thereof; and in his absence, on the vice-president, vice-mayor, or vice-chairman, or in the absence of all of the above, on any member of the governing board, council or commission. *See* § 48.111 and Monroe County Code § 2-59.

11. Service of Criminal/Civil Witness Subpoena- *See* § 48.031(3)

    a. Criminal witness subpoena to testify may be posted at residence after 3 attempts
    b. Criminal witness subpoena for deposition may be posted after 1 attempt
    c. Must be posted at least 5 days before required appearance
    d. Civil Traffic, Criminal Traffic, Misdemeanor or 2nd or 3rd Degree Felony- may be mailed to witnesses last known address and must be mailed at least 7 days prior to appearance; certified mail strongly recommended

12. Service of Criminal Witness Subpoena on Law Enforcement- *See* § 48.031(4)

    a. May be made by personal service or by delivery to a designated supervisory or administrative employee at the witness's place of employment if the agency head or highest ranking official at the witness's place of employment has designated such employee to accept such service. However, no such designated employee is required to accept service:
        i. For a witness who is no longer employed by the agency at that place of employment;
        ii. If the witness is not scheduled to work prior to the date the witness is required to appear; or
        iii. If the appearance date is less than 5 days from the date of service.

E. Return of Service: *See* § 48.21

1. Requirements- The Deputy shall note the following on the return of service:

    a. The date and time when the service comes to hand,
    b. The date and time of service
    c. The manner of service and
        i. Personal service on the individual;
        ii. Substitute service (noting type);
        iii. Corporate service (noting position of person served);
        iv. Posted service as authorized by statute; or
        v. Non-service after diligent search
    d. The name of the person on whom it was served
    e. Representative capacity (noting position occupied by the person when served substitute)
    f. All pleadings and documents served
    g. Signature of person serving the process

2. An incomplete return invalidates the service.

3. The original process and the return of service are then filed with the court.

F. Service of Foreign Process: The Sheriff may serve civil process issued out of a court other than in Florida; however, the authority is limited to the service of process and shall not be interpreted to permit a Sheriff to take any action against personal property, real property or persons even though directed to do so by the out-of-state court. *See* § 48.195. (Exception: action can be taken on an out-of-state order if the order is domesticated in a Florida court first.)

<u>Types of Non-Enforceable Writs</u>

1. EMINENT DOMAIN PROCEEDINGS: *see* Chapters 73 and 74, Florida Statutes.

2. EVICTION SUMMONS/LANDLORD-TENANT 5-DAY NOTICE *see* § 83.22 for service

3. INJUNCTION, Civil (not pertaining to violence)
   A court order restraining or preventing a party from taking action. This should receive immediate attention and will likely require personal service. *See also* Restraining Order

4. NOTICE OF HEARING
   A notice issued by the court with an assigned appearance date, time and location for a hearing. The notice is to be served on all persons specified in the notice and may be required to be served a certain number of days in advance of the hearing.

5. NOTICE OF LIS PENDENS
   The formal notice of the start of a foreclosure proceeding with the courts or any action against real estate that is recorded with the clerk of courts. *See* § 48.23

6. NOTICE TO VACATE
   Notice to a tenant to move from certain premises within a specified time or meet certain conditions. The delivery of such writ shall be made by the landlord by delivering or leaving a copy at the last place of abode. This notice is not issued by a Court and the Sheriff is not required to serve it.

7. REPLEVIN ORDER TO SHOW CAUSE
   An order to appear for a hearing and show cause why the claimed property should not be taken from the possession of the defendant and given to the plaintiff. The order will specify the time and manner of service.

8. RESTRAINING ORDER (not pertaining to violence)
   A court order restraining or preventing a party from taking action. This should receive immediate attention and will likely require personal service. *See also* Injunction

9. RULE NISI
   An order that the Court will enforce at a given date, unless cause is shown why it should not, or unless it is changed by further proceedings.

10. RULE/ORDER TO SHOW CAUSE
    A writ commanding a party to appear or show cause why he should not be held in contempt for failing to abide by a court order. Personal service of this writ is required before a Judge will issue a pick-up "order" for failure of a party to appear as commanded in a "Rule to Show Cause."

11. SUBPOENA
    An order to appear before the court or at a deposition at a specified date and time.

12. SUBPOENA DUCES TECUM
    An order directing a person to appear and/or produce books, paper, documents or tangible items designated therein. This is served in the same manner as a witness subpoena.

13. SUMMONS
    A summons is the first action in a civil lawsuit. It is usually accompanied with a complaint, affidavit, petition or other initial pleading that explains why and how the action came about. A summons is issued by the Clerk and orders the Sheriff to serve a copy of the summons and attached complaint or petition on the defendant(s). The original summons must be stamped with the time and date received. The Sheriff shall serve a true copy of this summons together with a copy of the complaint or petition and file a return of service in accordance with law and this general order.

14. WRIT OF GARNISHMENT

A writ of garnishment is a summons to a third party or person to appear in a lawsuit. It requires the garnishee serve an answer on the plaintiff in accordance with § 77.04. The service is made on the garnishee or third party in the same manner as a summons by delivering a true copy of the writ to the garnishee.

15. WRIT OF HABEAS CORPUS

A writ issued by the court ordering the release of a defendant from custody. This should not be confused with a petition for a writ of habeas corpus, which is the request to have the person released. *See* § 79.03 and § 79.04 for service and return requirements

16. WRIT OF MANDAMUS

A writ requiring, usually a lower court or an elected official, to perform a lawful act

Types of Enforceable Writs: An enforceable writ describes the action to be taken, commands it to be done and has the force of the Court behind it to see that it is done.

1. DISTRESS WRIT

A writ used in non-residential and/or commercial property evictions instructing the tenant(s) not to remove, damage, dispose of, or conceal any property subject to distress from the rental property after the time the writ is served until the sheriff is ordered to levy on the property. *See* § 83.12, § 83.06, § 83.08, § 83.09, § 83.11, § 83.135 and § 83.18

Procedure for Service of Distress Writ:

1. Check to ensure that a certified copy of the writ and sufficient copies for service were received
2. Review the writ and determine if it requires only service or service AND levy
   a. **Note:** the Sheriff is not allowed to change locks unless it is ordered by the Court
3. Ensure fee for service has been received
4. Serve the writ

Procedure for Order to Levy (Local):

1. Review Order to Levy to determine what action the Sheriff is ordered to take
2. If sale of property is ordered:
   a. Sheriff shall advertise the property for sale twice, the first time at least 10 days prior to the sale. All property shall be sold at the location advertised in the notice of Sheriff's sale. *See* § 83.19
   b. Prepare Notice of Levy
   c. Prepare Notice of Sale
   d. Sell the Property
   e. Apply proceeds of the sale to the cost of the levy
   f. Prepare Release of Levy
   g. File Return of Levy with the issuing court
   h. Distribute proceeds according to law and court order

** If tenant pays landlord in full prior to sale, the property shall be released from levy and returned to the tenant. *See* § 83.14**

Procedure for Order to Levy (Out of County): *See* § 83.13

1. If the property subject to levy is in another county, the plaintiff/landlord should deliver the distress writ to the sheriff located in said county
2. The Sheriff in the county where the property is located shall execute the levy and deliver the property to the Sheriff of the county where the action is pending, unless

there is a court order to the contrary from the county where the levy emanated

Procedure for Defendant/Tenant who cannot be found in the state: *See* § 83.13

1. If Landlord/Plaintiff shows by a sworn statement that the defendant cannot be found within the state, the levy on the property suffices as service on the defendant

2. WRIT OF POSSESSION

A writ of possession is a Court Order directing the Sheriff to remove the Defendant/Tenant from the premises and put the landlord or property owner in possession of the premises. This can also be used in foreclosure cases when homeowners fail to vacate after a foreclosure is complete. *See* § 83.62 and § 702.10(20)(h)

Initial Eviction Procedure:

1. Notice to Vacate: Landlord/Owner prepares 3-day notice informing tenant that eviction proceedings for failure to pay rent are imminent. The 3 days do ***not*** include weekends, holidays or the day of service; only business days. The 3-day notice must either be (1) posted on the door; (2) hand-delivered; or (3) mailed by the landlord/owner.
2. Landlord files Eviction with Court: If the tenant fails to respond to the 3-day notice, the landlord files an eviction case with the Clerk/Court
3. Summons for Eviction issued by Clerk: Each tenant/defendant must be served with a summons. It's best to serve one summons for "unknown parties in possession" in the event there are unknown people living in the home.
   a. Five-Day Summons: used when landlord seeks possession. This is served in different ways depending on whether the tenant is known or unknown. *See* § 48.184
   b. Twenty-Day Summons: used in connection with 5-day summons when landlord seeks past due rent or money damages. This MUST be personally served because it's an action for damages and not just possession
4. Sheriff **SERVES** Summons: Note the difference between the 5 and 20 day summons
5. Sheriff prepares return of service: prepare as directed above and submit to the Clerk. Include names of parties in possession that you learn at the time of serving the summons *See* § 48.184(6)
6. Hearing set: after 5 days have elapsed from date of service
7. Final Judgment of eviction/possession: Court issues Final Judgment of Eviction
8. Writ of Possession Issued by Clerk: sent to Sheriff for service

Writ of Possession Procedure:

1. Review/Process Writ of Possession
   a. Original and sufficient copies for service
   b. Fees paid
   c. Writ contains contact information of landlord/plaintiff
2. Serve Writ of Possession: **posting only- no personal service**
   a. The writ must be posted at the same address the original summons was served- be sure to verify the address. If its incorrect, process must start over
   b. The writ must contain the names of any and all known and unknown parties in possession if they were listed on the return of service when the 5-day summons was served (landlord must include new names obtained on the final judgment and the writ of possession *See* § 48.184(6))
   c. *See* § 48.184 – Service for removal of unknown parties in possession
3. Schedule appointment to transfer possession: Deputy contacts landlord and sets appointment for 24 hours after posting the writ of possession. At that time, possession is transferred from tenant to landlord. The 24 hour delay applies only to residential

evictions (§ 83.62) and not to commercial evictions (§ 83.241). **Landlord may not enter the premises before Deputy arrives and completes a safe search of the home**

Writ of Possession in Foreclosure *See* § 83.5615
24-hour delay after posting does not apply

Removal from Mobile Home Park *See* § 723.062

3. WRIT OF REPLEVIN

A writ of replevin is an action for the recovery of personal property wrongfully detained by another. This can include recovery of damages sustained by the wrongful taking/detention. The Sheriff does not take possession of the property, they simply supervise the transfer of possession from one party to another. This can be granted either before or after a final judgment is entered. This writ is a *priority* because property can be concealed or removed from the County. *See* § 78.01

Venue: Venue is proper in any county where the property sought to be replevied is located, where the contract was signed, where the defendant resides, or where the cause of action accrued. *See* § 78.032

Procedure for Writ of Replevin (Pre-Judgment): can only be issued by a Judge. *See* § 78.068

Obtaining a Writ of Replevin:

1. Plaintiff files a complaint with the Clerk that contains the information required in § 78.055
2. The court reviews the complaint pursuant to § 78.065 and will either issue the Writ or Replevin or an Order to Show Cause. *See* § 78.067 and § 78.075
3. Service of Order to Show Cause:
    a. The Order will fix the manner of service: Personal service on Defendant, Substitute Service at Defendant's residence, Posting the order and summons on or in the claimed property OR posting the order and summons on or in the main entrance of the Defendant's residence
4. Deputy will complete and file return of service

Procedure for Service of Writ of Replevin

1. Review the Writ for errors:
    a. Prejudgment writ may only be issued by a judge
    b. Information and sufficient copies for service, also must contain location of the subject property and contact information for plaintiff
    c. Collect service Fee
    d. Priority Writ: locate and execute IMMEDIATELY; have plaintiff meet you at the property location to take possession
2. Transfer of possession to plaintiff
    a. Inventory: take inventory of the transferred personal property
    b. Return of service: complete and file return of service for the property found and transferred as well as the property not found

Built in Break Order: *See* § 78.10
1. Probable Cause: If the Deputy has reasonable grounds to believe the property or any part thereof is concealed in a dwelling or other building or enclosure, the Deputy shall publicly demand delivery thereof; and, if it is not delivered by the defendant or some other person, the sheriff shall cause such house, building, or enclosure to be broken

open and shall make replevin according to the writ; and, if necessary, the sheriff shall take to his or her assistance the power of the county (ie. Locksmith)

2. No Probable Cause: if the deputy does not have reasonable grounds to believe that the property is concealed in a dwelling or other building or enclosure, the plaintiff may petition the court for a "break order" directing the sheriff to enter. Upon a showing of probable cause by the plaintiff, the court shall enter a break order.

Transfer of Property BEFORE execution of writ of replevin:

If Defendant transfers the property to a third party before execution of the writ, the Deputy shall execute the Writ on the property in the possession of the third party plus take the personal property. Service shall be made on defendant and third-party.

Property removed from the county: Plaintiff shall deliver writ of replevin to Sheriff in the County where the property is located. *See* § 78.12

Certain property may not be taken by replevin: *see* § 78.02

4. WRIT OF ATTACHMENT

A writ of attachment is an order directing the Sheriff to take a person, property or lands into custody until further order of the court or purge. A writ of attachment for property is covered under § 76.01 and a Writ of Attachment for Child Support is covered under § 61.11. The purpose is to provide the Sheriff with the authority to take property and hold it until further order of the court or in the case of child support, to take the person into custody and compel payment of past due child support.

5. WRIT OF EXECUTION

When a party prevails in a civil lawsuit, they can take steps to create a lien on the opposing party's assets to satisfy the judgment. To collect on said lien, a writ of execution needs to be issued. The prevailing party must file a certified copy of the judgment with the Clerk. This creates a lien on the property. The Clerk then issues a writ of execution. It is the duty of the Sheriff to serve executions, by levying upon property, and carry out orders directed to him for the satisfaction of judgments of Courts.

Property subject to and exempt from levy *See* § 56.061, § 56.09, § 30.30

1. The Sheriff may levy upon lands and tenements, goods and chattels, equities of redemption in real and personal property, stock in corporations, interest in personal property in possession of a vendee under a retained title contract or conditional sale contract and on current money of a defendant corporation in order to satisfy executions delivered to him.

2. The Sheriff may not levy upon public property owned by a county or municipality and used in the orderly administration of government, nor can he levy upon property already in the custody of the Court, such as property in the hands of a receiver.

3. The Sheriff cannot levy on property, title to which is in the name of a person other than the defendant in execution.

4. An estate by the entirety, that is, property owned jointly by husband and wife, may not be levied against one of them only.

5. Homesteaded property cannot be levied against. The property therein may be levied against with an exemption of $1,000 in personal property.

6. *See* Florida Statute Chapter 222 for additional exemptions

Procedure

1. Provide cover letter and levy example packet to the plaintiff/attorney upon request
    a. Levy example packet shall include the following:
        i. Plaintiff checklist for levy
        ii. Example of Creditor's Affidavit (real vs personal property)
        iii. Example of instructions for levy
        iv. DHSMV form 90510 for proof of ownership of vehicles or mobile/manufactured homes (if applicable)
        v. Example of Writ of Execution
        vi. How to Collect a Judgment in Florida informational packet
2. Upon receipt, check packet for legal sufficiency. If it is incomplete or has errors, send it back to the creditor for corrections. It must contain:
    a. Issuing court, case number, parties to litigation, debtor subject to levy named in the body of writ, amount of final judgment and costs + interest (*see* § 55.03 for rate calculation), interest percentage, date of final judgment, date writ was issued, and name and signature of issuing Deputy Clerk *see* § 56.031 and Fla. R. Civ. P. 1.914
    b. If the writ is insufficient, the Sheriff can refuse to accept it for service and direct the plaintiff/creditor to get an amended or corrected writ of execution or directed court order.
3. Verify the priority of lienholders, co-owners, mortgages, secured creditors
4. Verify defendant/judgment debtor's ownership of the property
5. Locate the property subject to the levy
    a. Seize/Levy the property
6. Inventory and store the property in a bonded/insured location until sale or release of levy
7. Notice of Levy- prepare and file with Clerk with the date the Sheriff took the property
8. Set sale date at least 30 days after first publication, *see* § 56.21
9. Notice of sale- file with Clerk
10. Send out certified mailings BEFORE first day of publication
    a. Send certified mailing to the plaintiff/creditor, defendant or their attorney and ALL parties named in the creditor's affidavit and included in the levy packet
    b. Mailings must include: Notice of Levy, Notice of Sheriff's Sale and Creditor's Affidavit
11. Advertise the Sale in a newspaper of general circulation, once weekly for a total of 4 consecutive weeks prior to the sale and get proof of publication
12. Have plaintiff provide estoppel letter
13. Day before sale: calculate full settlement figure, verify we have proof of publication, calculate payoff to date if defendant offers to pay in full
14. Sale
    a. Can be held on any weekday and continues until all property is sold
    b. Must be held where advertised
    c. May be held where the property is located, at the Sheriff's Office or at the Courthouse
    d. Creditor may direct the sale day so long as it's a legal sale day
    e. Cash and/or cashiers check
15. Sale Procedure
    a. The sale is handled by the Civil Division Supervisor or their designee
    b. Sign-up sheet with name, address and phone number
    c. State "Sheriff's sale will begin"
    d. Sheriff reads notice of sale and advertisement
    e. Identify personal property or read legal description of real property
    f. Multiple items + bids = Sheriff should offer property individually then again as a whole
    g. Ask for bids- then offer property 3 more times and then sold to the highest bidder,

cash in hand

16. Credit Bid
    a. Only senior creditor may bid his judgment not to exceed the amount of execution + subsequently accruing interest and court costs AFTER all costs of sale are met
    b. No credit bid if a junior 2nd priority creditor is moving writ party, cash only.
17. Collect Payment- Cash and/or Cashiers Check, confirm highest bidder's address and contact information. Buyer has one hour to get cashiers check and return to the location of the sale.
18. Prepare bill of sale or deed as appropriate and calculate final costs including civil fees and miscellaneous expenses and the balance due to the plaintiff along with the monies generated from the sale.
19. Disburse Proceeds *see* § 56.27. § 55.202, § 55.203, § 55.204
    a. Pay sheriff's fees
    b. Pay costs of levy
    c. Pay liquidated expenses; pay if 3rd party is high bidder for cash and sale proceeds are sufficient
    d. May request direction from court on distribution of funds if necessary
20. If the judgment has been satisfied, a letter of satisfaction is required from the plaintiff and this is returned to the Clerk's Office along with a return and the Writ of Execution.

Stay of Illegal Writ

If the defendant/debtor believes the writ is illegal, *see* § 56.15

Third Party Claim to Property

If a third party comes forward stating they have a claim to property, *see* § 56.16

Legal Process Fees and Procedure

The statutory fees for service of the various writs shall be collected in advance. However, the County, Office of the State Attorney and Office of the Public Defender are not obliged to pay the statutory fees. This shall be handled in accordance with G.O. Chapter 80, Legal Process Fees.

The Sheriff shall collect, in advance, a deposit sufficient to cover all reasonably anticipated costs incident to the levy. The following are minimum costs, which are provided as guidelines:

1. Subpoenas - $40.00

2. Index and docket executions - $40.00

3. Summons, notices, etc. - $40.00

4. Levy deposits on vehicles and boats - $3,000.00

5. Levy deposits on real property - $2,500.00

6. Levy deposits on businesses – approximately $6,000.00 to $20,000.00