

# Office of the Sheriff

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LOB #218:

## **LEGAL PROCESS SERVICE**

### **Purpose**

Specific sections of the Code of Virginia, the Constitution of Virginia, and Common Law establish and mandate that sheriffs and their deputies execute civil law processes. The civil enforcement branch has civil and criminal jurisdiction in Fairfax County and civil authority in contiguous jurisdictions. The primary responsibility is the service and enforcement of civil law that includes:

- Guaranteeing 5<sup>th</sup>, 6<sup>th</sup>, and 14<sup>th</sup> Amendment rights of due process
- Service of subpoenas, protective orders, writs of possession, summonses, notices, motions, and warrants
- Execution of garnishments, levies, interrogatories, writs of possession, and distresses

This line of business is also responsible for coordination with the Fairfax County Department of Tax Administration, the State of Virginia, the Washington Metropolitan Airports Authority, state and local agencies both within and outside of Virginia, Workers Compensation Commissions, and private landlords and businesses in the collection of various outstanding fees and taxes.

### **Description**

The Legal Process line of business serves, executes and enforces all court orders. It also has civil and criminal jurisdiction in Fairfax County and civil authority in contiguous jurisdictions. Its primary responsibility is the enforcement of civil law.

The Legal Process functions are performed by 31 staff members, primarily accredited deputy sheriffs, supplemented with civilian staff. Only a sheriff or deputy sheriff is authorized to perform most of these services because only they have civil and concurrent criminal jurisdiction.

Service of legal process is a constitutional guarantee and requires providing "notice" and explanation of "purport." The civilian staff provides administrative support and the collection of state and local fees and fines. Hours of operation for civil enforcement sworn personnel can range from 5:00 a.m.-10:00 p.m., Monday through Saturday. A standby schedule provides for service of protective orders received later in the day.

The deputies perform these services efficiently and effectively to ensure everyone's safety. However, there is always a high risk potential for the deputy due to the emotional nature of the process, such as taking property due to tax claims, serving protective orders, taking a child in a custody settlement or evicting residents still in the home. Since service of civil process is usually time and place predictable, the person on whom the judgment is being rendered has an opportunity for a planned response.

The only service not legally mandated, but still provided by the Sheriff's Office, is eviction on behalf of private landlords. Judges have ruled that service by a deputy is prima facie evidence of delivery. Private agencies performing this task are subject to having to prove service was made, which results in longer court hearings. Fees that the Sheriff's Office charge for service of process are mandated by state statute and become the revenue of the state. Service related to evictions amounts to only about 4 percent of annual services, in terms of number executed, and even less in terms of time spent.

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## Benefits

The services provided are not only mandated but also performed for the benefit of judges, special justices, court employees, attorneys, law enforcement officers, prisoners, patients with mental illness, business owners, the general public having business in the courts, as well as the residents of Fairfax County, City of Fairfax, Town of Vienna, and Town of Herndon.

With highly trained and experienced staff, the Sheriff's Office provides professional service of civil process to those living in and conducting business throughout the jurisdictions. Service of civil process is a necessary part of the judicial system. The agency's highly trained and professional staff members help county residents by providing:

- Fast and efficient service of process.
- Professional contact and interaction with the public by fully explaining the civil document or instrument.
- Accurate service, execution and return documentation to the courts, thereby reducing agency liability.
- Support to various non-standing units and activities, such as Project Lifesaver, which have a direct and positive benefit for those who live and/or work in the County.
- Assistance to the members of the community that have questions about their service or about general civil procedures.
- Return of property through civil litigation.
- Increased public safety by placing emphasis on speed and diligence in the service of protective orders.

The Civil Enforcement Branch also works closely with the County's Department of Tax Administration, resulting in the recovery of approximately \$750,000 in delinquent personal property taxes annually. Since the beginning of FY 2016, the branch is also participating in the TARGET program to identify apparent tax evaders. After less than three months of operation, the TARGET program is on track to collect significantly more than the \$250,000 that was budgeted.

## Mandates

The service of process by the Sheriff's Office is mandated as set forth by the Code of Virginia and the Rules of the Supreme Court (8.01-287). The Sheriff's Office also serves process following rules governed by the Fairfax County General District Court and Circuit Court. The rules are based on statutes and case law.

In addition to the mandated service, the Sheriff's Office provides non-mandated service to residents of Fairfax County and contiguous counties, including, but not limited to:

- Collection of both Fairfax County and City of Fairfax taxes
- Service and delivery of electoral ballots
- Security for the padlocking authority for the Virginia Department of Taxation
- First step in eviction process

## Trends and Challenges

Fairfax County continues to expand its corporate revenue base through urbanization. Urbanization causes increased traffic, which decreases efficiencies for civil enforcement deputies. The County is also experiencing an increase in overall population, which adds more vehicles to our roads and further erodes efficient time between services. The revitalization of the Tyson's Corner area has also increased the deputies' workload.

The Civil Enforcement Section has not requested any additional positions since the mid to late 1980s. Since then, the County's population has grown by 300,000 and become significantly more urbanized. Although the overall statistics regarding the total number of services has not changed significantly, the types and complexities of services have changed dramatically. The number of services that are minimally time consuming, such as postable documents (summons, subpoenas) has dropped, yet the number of services that are extremely time consuming (evictions, distresses) has increased significantly. If the increasing issues with traffic and commuting are taken into consideration, some of these services take even longer.

A distress seizure warrant, which enforces recovery of unpaid taxes, is an example of a timely service that has increased significantly. In FY 2006, 1,231 distress seizure warrants were issued, compared to 2,268 in FY 2013. While distress seizures are extremely time consuming, the Civil Enforcement Section recovered \$808,157 in FY 2013 for the County's Department of Tax Administration.

The growing number of distress seizure warrants, combined with the increased traffic resulting from urbanization and population/business growth, will require two additional deputies to serve the warrants, as identified in the Public Safety Staffing Plan.

A tremendous challenge over the last couple of years has been the current information management system. The iLeads system is cumbersome, slow and frequently down for service. All documents are entered into the iLeads system manually. When the system is operational, which is approximately 80 percent of the time, each deputy will average at least one hour of daily data entry.

The administrative staff faces daily challenges in dealing with six separate court systems within Fairfax County (Circuit Court, General District Court, Juvenile and Domestic Relations District Court, the City of Fairfax Court, and the Towns of Herndon and Vienna Courts). The administrative staff also must process paperwork for every court in Virginia and many out-of-state papers. Each court processes civil papers in a different manner; maintaining continuity for all of the various jurisdictions is becoming increasingly challenging.

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## Resources

Category	FY 2014 Actual	FY 2015 Actual	FY 2016 Adopted
<b>LOB #218: Legal Process Service</b>			
<b>FUNDING</b>			
<u>Expenditures:</u>			
Compensation	\$2,325,279	\$2,429,920	\$2,683,458
Operating Expenses	377,401	472,187	432,709
<b>Total Expenditures</b>	<b>\$2,702,680</b>	<b>\$2,902,107</b>	<b>\$3,116,167</b>
General Fund Revenue	\$684,992	\$664,078	\$704,619
Net Cost/(Savings) to General Fund	\$2,017,688	\$2,238,029	\$2,411,548
<b>POSITIONS</b>			
Authorized Positions/Full-Time Equivalents (FTEs)			
<u>Positions:</u>			
Regular	30 / 30	30 / 30	31 / 31
<b>Total Positions</b>	<b>30 / 30</b>	<b>30 / 30</b>	<b>31 / 31</b>

## Metrics

Metric Indicator	FY 2013 Actual	FY 2014 Actual	FY 2015 Actual	FY 2016 Estimate	FY 2017 Estimate
Attempts to serve / execute civil process	171,598	169,475	163,845	165,000	165,000
Attempts to serve / execute per civil enforcement deputy	7,800	7,703	7,448	7,600	7,600
Annual civil enforcement cost per capita	\$2.11	\$2.20	\$2.58	\$2.76	\$2.94
Founded complaints received regarding serving of civil process	0	0	0	0	0
Court cases adversely affected due to technical error in the service of process	0	0	0	0	0

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The Civil Enforcement Branch is responsible for the service and execution of civil law processes. The geographic territory includes Fairfax County, City of Fairfax, Towns of Herndon and Vienna, and the contiguous counties surrounding Fairfax. Deputy sheriffs and support staff must perform mandates in accordance with the Virginia Constitution and Virginia Code. The Sheriff's Office serves and executes a plethora of court documents including, but not limited to:

- Summonses
- Writs of Possession
- Motions
- Evictions
- Protective Orders
- Levies
- Garnishments
- Warrants
- Child Support Notices
- Department of Tax Administration actions

In FY 2015, Sheriff's Office staff processed a total of 143,029 court-generated documents. Of that number, 26,074 were subpoenas and summonses served on businesses and residents in Fairfax County. Deputy sheriffs are required to thoroughly understand complex legal documents. Many of these documents require in-person contact with residents and necessitate clarification or explanation of actions such as wage garnishments, protective orders and evictions.

The Legal Process line of business also works closely with the Fairfax County Department of Taxation (DTA) on several initiatives to assist in the collection of outstanding fees/taxes owed to the County. A recent program adopted by the Sheriff's Office is the locating and reporting of personal property tax evaders to DTA. In FY 2015, levies and tax distresses accounted for 2,534 services by deputy sheriffs. Sheriff's sales increased from 15 in FY 2014 to 24 in FY 2015.

A total of 9,745 separate returns were required to perform 1071 evictions in FY 2015. Executing evictions can require coordination with property owners, tenants, trustees, locksmiths, movers and other county agencies such as Adult Protective Services, Mobile Crisis, Solid Waste and Animal Control. Attention to detail is required to ensure proper and accurate due process for both the plaintiff and defendant.

A total of 2,369 protective orders were received from various courts. They must be served immediately and in-person. Many protective orders require several attempts to locate the respondent. These services also included 203 child protective orders. Many protective orders grant possession of the home and child custody, which requires on-scene Sheriff's Office enforcement to ensure the safety of all involved. Custody orders increased by 131 from FY 2014 to FY 2015, with no incidents of violence.

The performance measure associated with this line of business is the number of documents deputies attempted to serve/execute. Although it appears that the trend is slightly downward concerning this metric, the type of document served over the past couple of years is exponentially more time consuming. Documents now require manual entry into the iLeads system, which is a protracted and time-consuming process for staff. iLeads is currently under review for possible replacement/upgrade, but it continues to be an unreliable and inefficient method of managing records.