

**I. PURPOSE**

To describe the duties and responsibilities of the personnel assigned to the civil enforcement section.

**II. POLICY**

It is the policy of the Fairfax County Sheriff's Office to dispose of all property acquired through legal process in compliance with the Code of Virginia, as outlined in the Virginia Sheriff's Association Handbook, Rules of the State Supreme Court and Rules of Fairfax County Courts.

**III. PROCEDURE**

It is the responsibility of the civil enforcement section supervisor to ensure that all property acquired through legal process is disposed of in accordance with the Code of Virginia.

A. Attachment: The seizure and taking into custody of the law of the person or property of a party to the suit, either in an action already begun or at the beginning of an action to acquire jurisdiction, to secure possession of property which is in controversy or to create security for a debt which is in controversy.

1. This is to allow the plaintiff to secure an immediate contingent lien on property in the possession of the defendant until the plaintiff's claim is adjudicated.
2. The attachment is secured by sworn affidavit before the clerk of the court.
3. In an attachment action where the plaintiff merely desires a levy prior to judgment by the court, the plaintiff must furnish a bond to the court at the time of initiating the attachment action. The bond will be set in a value equal to the property to be levied on.
4. If the plaintiff desires property to be seized under attachment prior to judgment of the court, the deputy must file a certificate with the court indicating the deputy's appraisal of the property. A bond must then be furnished by the plaintiff, at double the deputy's certified value.
5. The plaintiff must make arrangements for the storing of any seized property.

B. Detinue: A personal action for the recovery of goods or their value.

1. Detinue is the form of legal action in which the plaintiff seeks to recover possession of specific property.
2. It is often used by creditors to recover possession of property sold under conditional terms, such as automobiles, furniture and appliances.
3. In a detinue action, the plaintiff may elect to merely have the defendant (debtor) served with a summons to appear in court and have a trial to decide the issue of rightful possession.
4. The plaintiff may elect to have the Sheriff's Office immediately seize the property and have said property delivered to him/her.
5. If the plaintiff elects to have the property seized, the order commanding the seizure of the property will be issued and served together with the form for requesting a hearing on a claim of exemption by the defendant.

6. A deputy must record date, time and place of execution and indicate if an agent for the plaintiff must be included.
- C. Garnishments: When a creditor has obtained a judgment against a debtor and knows of money in the possession of some third party to which the debtor is entitled, the creditor may seek to obtain such money through an action of garnishment.
1. In such a procedure, the third party (garnishee or employer) becomes a co-defendant in the action. Service should always be made on the co-defendant first and personal service is required. However, any officer, managing employee or registered agent may suffice.
  2. If the deputy cannot locate one of the above, he must indicate it on his return.
  3. The principal defendant (debtor) may be served in accordance with the rules for service on a natural person. A garnishment is a lien on those wages, plus any wages, which will come due the debtor during the period the garnishment is in effect.
  4. When a deputy serves a co-defendant, the plaintiff should supply the deputy with a copy of the garnishment to mail to the debtor. Mailing of a copy must be noted on the original/return copy of the garnishment.
- D. Interrogatory Proceedings: Written questions put forth on behalf of one party in an action to another party, or to someone who is not a party, before the trial. Verbal questions put to a witness before an examiner and answered under oath.
1. When a creditor has obtained a judgment against a debtor, he or she may petition the court to summon the debtor before the court to answer questions as to his or her personal assets and real estate.
  2. Service is made in accordance with the rule for service of process upon a natural person.
- E. Warrant in Distress: a taking of chattel from a wrongdoer, without legal process, to enforce payment. It is limited to taking of personal property for purpose of security.
1. When rent is past due, a landlord may obtain a warrant in distress. A warrant in distress can be obtained from the General District Court. It is returned, however, to the Circuit Court.
  2. The landlord must wait 10 days after a levy to petition for sale, which the tenant may contest in Circuit Court. The deputy may levy on the tenant's property if removed from the leased premises within 30 days prior to the levy.
  3. When a deputy is required to levy on property under a warrant in distress, the plaintiff will be required to provide a bond equal to the value of the property to be levied upon.
  4. In the event the plaintiff wants the property seized, a bond in double the value of the property to be seized must be provided by the plaintiff.
- F. Writs of Possession: When a judgment has been awarded in favor of a landlord under a warrant in unlawful detainer procedure, the landlord may obtain a writ of possession from the court.

1. This writ gives the Sheriff the authority to remove from the premises the defendant and the defendant's belongings and restore possession of the premises to the landlord.
  2. The writ of possession (eviction) will be executed as directed in [SOP 802 Evictions](#).
- G. Liens: When the court has rendered judgment for a plaintiff in a civil action, that judgment becomes a legal claim for the plaintiff against the defendant.
1. A lien is a claim upon property of a person for satisfaction of some debt or duty owed.
  2. The lien will begin from the time the defendant's property is levied on by a deputy under the Writ of Fieri Facias.
  3. If property capable of being levied upon under a Writ of Fieri Facias is not levied on before the return date of the writ, the lien will cease as of the return date.
  4. Property levied upon under a Writ of Fieri Facias, on or before the return date of the writ, may be advertised and sold within a reasonable time after the return date.
- H. Writs of Fieri Facias: an execution in a civil action, which is directed to the Sheriff, via which a person who has received judgment for a debt or damages may obtain satisfaction from the personal property of the judgment debtor.
1. On judgment for money, the clerk of the court will issue a Writ of Fieri Facias upon request of the judgment creditor after 21 days have expired from the date of judgment by the court, and the judgment remains unsatisfied.
  2. The Writ of Fieri Facias commands the deputy to make the amount of money in the judgment from the goods and chattels (property) of the defendant.
  3. The deputy will execute the Writ of Fieri Facias as directed in [SOP 801 Levies](#).
- I. Sales
1. Sales on property under execution are made either under a Writ of Fieri Facias or Venditioni Exponas.
  2. In any case where a deputy has levied on property or when ordered by a court to settle, the deputy will fix a time and place for the sale and post notice of the sale at least ten days in advance thereof.
  3. Notice of the sales will be posted in the following manner:
    - a. One near the residence/business
    - b. Two at more public places in the county
    - c. One at the Courthouse
  4. Property will be sold to the highest bidder for cash or certified check.
  5. If there is no reasonable bid made, then sale may be declared postponed and a new sale held after posting notices of a future sale date.
  6. The sale will be made in accordance with Virginia Code [8.01-492](#).

7. The property levied upon and subject to sale, will be left in the possession of the defendant until the time of the sale, except when the plaintiff has posted a bond for its seizure or otherwise ordered by the court.
8. The plaintiff will bear all costs of seizure and storage prior to sale, to include an indemnifying bond to cover the value of the property seized.
9. In the event that the property to be sold is perishable or expensive to keep, the court (from which the execution is issued) may order it sold in less than the normal 10-day period.
10. The deputy conducting the sale may not permit any officers or employees of the county to bid or purchase directly or indirectly any property sold under a writ.
11. The highest bidder at the sale must be able to provide acceptable payment to the deputy conducting the sale at the conclusion of the sale.
12. If the purchaser should default in any way, the deputy may resell the property immediately or reschedule the sale after posting the appropriate notices.
13. In such circumstances, if the property or goods bring less than the original high bid, the original purchaser may be liable to both the plaintiff and the judgment debtor for the difference lost in the second sale.
14. At the conclusion or finalization of the sale, the conducting deputy will give to the person providing him or her with proper payment, a receipt for the full amount of money paid to him or her.
15. The deputy will turn over all monies received with copies of all forms involved to the Administrative Support Supervisor no later than the beginning of the next working day. Where there is not enough time to complete a sale on a given day, the deputy may adjourn the sale from day to day until it is completed.

  
**STACEY A. KINCAID  
SHERIFF**

01/01/00  
**DATE APPROVED**

11/12/19  
**EFFECTIVE DATE**

**Revised: August 2007, September 2016, October 2019**