



Charleston County Sheriff's Office Policy and Procedures Manual

Sheriff Carl Ritchie

10-04 Civil Process

- ☐ New
- ☐ Revised
- ☒ Reviewed

ACA Standards Reference:

CALEA Standards Reference: 74.1.1, 74.1.2, 74.2.1, 84.1.8

NCCHC Standards Reference:

SCLEA Standards Reference:

SC Minimum Standards:

This policy dated 1/28/2025 replaces prior policies cited above and supersedes all previously issued directives.

I. Purpose:

To establish policy and procedure concerning the receipt, reporting, service, and processing of civil process.

II. Policy:

The Charleston County Sheriff's Office is mandated by state law to assist the court with service of civil process, and to effect these duties in a diligent and timely manner as instructed by law.
(Ref: CALEA 74.2.1)

III. Definitions:

A. For purposes of this procedure, the word "deputy" applies to all agency employees with a certification classification of Class I, Class II, Class III, or Reserve Deputy, as defined by the South Carolina Criminal Justice Academy.

The following terms are used interchangeably; however, they carry guidance to specific employees based on usage of the term:

1. Deputy, deputies, deputy sheriff, special deputy, detention deputy, sworn employee, uniformed sworn employee, sworn administrative employee, etc., and
2. civilian, non-sworn employee.

B. *Employee:* When used without further clarification, the term employee is inclusive of all agency members (sworn and non-sworn).

C. *Special Deputy/Deputies:* A deputy who has been sworn in by the Sheriff but has not graduated from the South Carolina Criminal Justice Academy (SCCJA). Special Deputies will only be responsible for the service Civil Process paperwork and Criminal Proceedings. Special deputies will be assigned to the Special Operations Bureau's Judicial Services Division and/or to the Sheriff Al Cannon Detention Center.

IV. Procedure:

A. Records:

1. All civil process to be served by personnel of the Charleston County Sheriff's Office will be forwarded immediately to the Civil Process Unit to be recorded.

2. The following information will be included in the civil process records when process is received:
 - a. date and time received;
 - b. type of process;
 - c. nature of document;
 - d. source of document;
 - e. court docket number, if known;
 - f. name(s) of plaintiff(s);
 - g. name(s) of defendant(s);
 - h. deputy sheriff assigned for service;
 - i. date assigned;
 - j. date service due, if applicable;
 - k. fee for service; and
 - l. court. (Ref: CALEA 74.1.1 items a-i)
3. All fees for service of civil process by the Sheriff's Office will be in accordance with the fee schedule set forth by state law and county ordinance.
4. Records of all funds received and disbursed through the Civil Process Unit will be maintained in accordance with accepted accounting principles. Each section, Executions, Attorney Papers, and Family Court will maintain separate computer records, complete with daily back-up of entries.
5. The Family Court and Attorney Papers Sections' entries will contain the following information:
 - a. case number;
 - b. name of person served;

- c. plaintiff's attorney, if applicable;
 - d. Sheriff's Office fee(s);
 - e. date received; and
 - f. check number.
- 6. All funds received through the Execution Section will be deposited on Fridays except for property sold which is deposited the day of the sale. All other civil fees will be deposited in a timely manner. Monthly disbursements to the Treasurer's Office must match the amount of entry and Sheriff's fees collected each month.
- 7. All civil process served by any deputy sheriff of the Sheriff's Office will be returned immediately to the Civil Process Unit for updating of records and disposition.
- 8. The following information will be included in the civil process records when updated:
 - a. date and time service was executed/attempted;
 - b. name of deputy sheriff executing/attempting service;
 - c. name of person on whom legal process was served/executed;
 - d. method of service/reason for non-service;
 - e. address of service/attempt;
 - f. property seized, if applicable; and
 - g. disposition of property seized. (Ref: CALEA 74.1.2 items a-e)
- 9. All records concerning the receipt and service or attempted service of legal process by the Sheriff's Office will be maintained by use of a computer system, complete with daily backup of entries. Such records will be available for a period of three years, as required by statute.
(Ref: CALEA 84.1.8)
- 10. Periodic audits will be conducted to verify accuracy of the records maintained.

B. The following individuals are exempt from civil arrest:

1. Both houses of the State Legislature will be protected in their persons and estates during their attendance on, going to, and returning from the General Assembly, and ten days previous to the sitting and ten days after the adjournment thereof. However, these privileges will not protect any members who will be charged with treason, felony, or breach of the peace. The South Carolina Attorney General has ruled that the historical meaning of the phrase, "breach of the peace," unquestionably included all criminal offenses, thereby extending no immunity or privilege whatever to a legislator for any criminal act. This section is construed as granting immunity only from civil arrest or summons during the protected period.
2. A military reservist, while actually engaged in, attending, going to, or returning from military duty, is granted the same immunity from civil arrest or summons as legislators.
3. Those citizens who are going to, attending, or returning from, any court as party or witness, or by order of the court, are granted the same immunities from civil arrest as legislators.
4. Electors on days of elections, while attending the polls for voting, and going to and returning there from, are granted immunity from civil arrest.
5. The United States Constitution provides a similar immunity to civil process for members of Congress.

C. Duties and Responsibilities:

1. The process served by the deputy sheriff is at the command of the court and the Sheriff is responsible for the service of the court order. Improper service may result in criticism, penalties, and/or complaints. Accuracy, expediency, and courtesy are necessary in all service.
2. The Deputy Sheriff shall log and return each process received. Service should be made within a reasonable time after receipt of the document. A service sheet shall be attached to each document to be served and should reflect three attempts: morning (0600-1100 hours), midday (1100-1600 hours) and evening (1600-2100 hours) when practical, prior to rendering the document non-serviceable.

3. Legal and correct returns are of extreme importance, as is the attitude and ability of the deputy sheriff making the service. A false return, neglect, or refusal to execute and return any process constitutes a crime, and this action can be directed toward the Sheriff and their deputy.
4. A deputy sheriff should not argue or discuss the merits of a case, offer legal advice under any circumstance, or recommend a specific attorney. Violation of this conduct can subject the Sheriff and their deputy to severe criticism and censure. Rigid adherence to all tenets of South Carolina law, Sheriff's Office policies and procedures, and the demonstration of a professional attitude will produce a quiet efficiency that will reflect the utmost degree of professionalism required of each individual serving as a deputy sheriff with the Charleston County Sheriff's Office.
5. Each deputy sheriff assigned to Civil Process will become familiar with the various types of legal process, their forms, and the language of law in order to effect a proper legal service.
6. Upon the completion of any service, the deputy sheriff must sign and complete a return of service to be returned to the court of issue. Any original court documents received must be returned to the court of origin; only certified duplicates may be served in this instance. Each deputy sheriff must sign the returns for process they have served.
7. Process should be served between the hours of six in the morning and nine in the evening. However, there is no strict guideline on the times and someone avoiding service can be an exception. Process may be served on any day including Sunday. However, process may not be served on any person who is going to or from or attending a regularly or specially scheduled church or other religious service on Sunday.
8. Individuals are subject to punishment for obstructing the service of process or resisting arrest under the provisions of § 16-9-32 of the Code of Laws of South Carolina, 1976, as amended.
9. When in the presence of a deputy sheriff, the person named for service refuses to accept service; the process may be left on a table, floor, attached to a door, or in the defendant's presence after explaining the contents. This constitutes a legal service.

10. Deputy Sheriffs may serve process from a court out of state; however, the authority is limited to the service of process unless otherwise ordered by a South Carolina Court.
 11. Service of process may be accomplished by serving the individual named anywhere they may be found in the county, or as otherwise directed and in accordance with South Carolina state statutes.
(Ref: CALEA 74.2.1)
- D. All service of Civil Process will be accomplished in accordance with South Carolina Rules of Civil Procedure, Rule 4, as follows:
1. If a suit is against a corporation, process should be served to a corporate officer, a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process.
 2. Service against a partnership will be served on any member thereof and is as valid as if served on each individual member. Service of process on a single partner binds partnership property, but not property of each individual partner.
 3. An agent is one appointed, by a principal, as their representative and one to whom the principal confides the management of some business to be transacted in the principal's name or on their account. The agent is able to bring about or effect legal relationship between the principal and a third party. Such an agent may receive process for the principal they represent.
 4. If a suit is against a minor under the age of fourteen years, process must be served to such minor personally and also to their parent or guardian. If no parent or guardian lives within the state, the process can be served to any person having care and control of such minor with whom the minor resides, or in whose service the minor may be employed.
 5. If a suit is against a person imprisoned in this state, a patient confined in a state hospital, or a person in a similar institution in or out of this state, the process should be served to the defendant personally. Such personal service must be made by the Sheriff of the county in which the person is imprisoned or confined.
 6. If the defendant is imprisoned in the state penitentiary or is a patient in a state hospital or similar institution, service can be made to the defendant personally by the director of the prison system or the

superintendent of the state hospital or by assistants duly designated by them instead of being served by the Sheriff.

7. When a party to a suit is known to have an attorney, service of process may be made to the attorney instead of the party, at the request of the party to be served. If the attorney is not in their office, process should be left with their secretary, paralegal, or other person in charge of the office. If the office is closed, process may be served at the attorney's residence to any person of suitable age and discretion.
8. Unless otherwise directed by state statute, all other persons to whom process is to be served may be served personally, or the process may be served to any person of suitable age and discretion residing at the residence of the defendant. (Ref: CALEA 74.2.1)

E. Non-Enforceable Writs:

1. A summons is issued by the court to bring the defendant within the jurisdiction of the court and to give them notice of the action, and an opportunity to appear on a specified date or within a prescribed number of days to offer a defense. The summons will name the parties to the action, and one may be made a defendant only by the service of a summons. The plaintiff is required by law to have inserted in the summons a notice which informs the defendant that if an answer is not given to the complaint within the time period designated, the plaintiff may be granted judgment by default.
2. The summons must be accompanied by a Complaint, Affidavit, or Initial Pleading that explains how and why the action was initiated. The original summons will be stamped with the date and time received. The Sheriff is required to serve a "True Copy" of this summons together with a copy of the Complaint or Petition, as furnished by the plaintiff, to the defendant. The Sheriff or their deputy will enter the required information regarding service on the worksheet in order that a service return may be sent to the court of issue.
3. A Notice of Hearing is a notice for the defendant to appear at a specified time and place. A true copy is served upon said defendant or person specified in the notice in the same manner as a summons; by delivering a true copy of the notice to the person to be served and placing the time, date of service and signature of the deputy sheriff on the affidavit or by leaving a copy at the defendant's dwelling house or usual place of abode with some person of suitable age and discretion.

4. A restraining order is a prohibitive writ issued by a judge, forbidding a party to do certain things. It is of a temporary nature and its purpose is to restrain the party or parties until a hearing can be held to determine whether or not an injunction will be granted. In most cases a hearing date will accompany the restraining order. This writ should receive immediate attention and, if directed to an individual, must be personally served.
5. The Sheriff is under no obligation to enforce injunctions or restraining orders unless specifically directed to do so in the body of the writ. When a person violates the conditions of the order which was served to them, they must be brought back to court to show why they should not be held in contempt. This is usually accomplished by means of a bench warrant, citation, or body attachment.
6. A subpoena is a command issued under the seal of the court stating the name of the court and the title of the action of the suit, which orders each person to whom it is directed to attend and give testimony at the time and place therein specified. In addition to personal service, a witness subpoena may be served by substitute service in accordance with Rule 4. A Probate Court subpoena for a patient should be personal service only.
7. A subpoena duces tecum is a process by which the court commands a witness who has in their possession or control some document or paper that is pertinent to the issue of a pending controversy, to be produced at time or place so stated in the process. A subpoena duces tecum is served as a personal service or a substitute service.
8. Habeas Corpus is a writ to obtain the release of a person from unlawful custody. Personal service is required upon delivery of a Writ of Habeas Corpus.
9. Eminent Domain is the power to take private property for public use. Personal or substitute service may be realized in the service of this process.
10. A Rule to Show Cause is a writ commanding a party to appear or show cause why that person should not be compelled to do the act required or why the objective of the rule should not be enforced. 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. It is also possible for this writ to contain a petition to be served conjunctively. Personal or substitute service is allowed, as per Rule 4.

11. A Rule Nisi is an order which will become final unless the party shows cause why they should not be compelled to do the act. Personal or substitute service is allowed in the same manner as a summons.
12. A Writ of Mandamus is a writ which commands the performance of a specific duty. Personal or substitute service is allowed.
13. A mechanic's lien is a claim created for the purpose of securing priority of payment of the price or value of work performed and materials furnished in erecting or repairing of a building or other structure upon any real estate. A mechanic's lien is served on the owner or person in possession of the property. The lien may be accompanied by a petition. The suit must be filed within 90 days of the last labor or materials delivered. The foreclosure suit must be commenced within six (6) months after the contractor ceases to furnish labor or material. Personal or substitute service is allowed.
(Ref: CALEA 74.2.1)
14. Whenever a warrant is issued against a corporation under the provisions of §22-3-750 of the Code of Laws of South Carolina, 1976, as amended, or an indictment has been returned against it under the provisions of §17-19-70, of the Code of Laws of South Carolina, 1976, as amended, a copy of the warrant or indictment will be served upon such corporation in the manner provided by law for the service of process in civil actions. When there is no agent or officer of the company within the county the service shall be served according to the provisions of §17-13-80 of the Code of Laws of South Carolina, 1976, as amended.

F. Enforceable Writs:

1. When serving an enforceable writ, the deputy sheriff is required to take some action against a person or thing as dictated in the writ or order. An enforceable writ describes the action to be taken, as directed by the court.
2. A Writ of Attachment is an act or process of taking, apprehending, or seizing persons or property, by virtue of a warrant, summons, or other judicial order, and bringing the same into custody of the court for the purpose of securing satisfaction of the judgment ultimately to be entered in the action.
3. It will be the duty of the deputy sheriff to whom an attachment is directed to levy the attachment upon the real or personal property of

the defendant which is found in Charleston County and necessary to satisfy the claim of the plaintiff. Attachments may be made at the same time as the summons and complaint is served but may also be made before or after service. Attachment proceedings may be served on Sunday.

4. The purpose of attachment is to take custody, and safely keep, as much of the property of the defendant as may be necessary to satisfy the plaintiff's demand should they prevail in the lawsuit. The order may or may not designate property to be taken. The property remains in the custody of the Sheriff until further order of the court.
5. When real estate is attached, a true copy of the writ of attachment must be served to the party whose real estate is attached. A true copy must also be given to the office in which a deed of such real estate is recorded. In Charleston County, this office is the Registrar of Mesne Conveyance (RMC).
6. A copy of the writ does not need to be served when personal property is being taken. When property is attached, the owner does not lose ownership at that time. They do lose possession. The state, through its courts, is placed in temporary possession until the issues can be litigated. The plaintiff gains no interest in or right to the property either. The property is in the hands of the court and remains in the possession of the court until the case is decided.
7. The only way the defendant can retain possession of the attached property is through the posting of a re-delivery bond approved by the court and/or the Sheriff. Such a bond is executed by two good sureties in double the appraised amount of the property which is to be taken or double the amount of the judgment. Otherwise, the property attached may be sold at public sale, pursuant to a court order, to satisfy the judgment granted to the plaintiff.
8. A body attachment is a civil arrest of a defendant involved in a civil action. It is not a criminal arrest, and the defendant should not be subjected to the identification process of being photographed and fingerprinted.
9. A court may also issue an Execution Against the Person. This is a form of civil arrest that occurs when a debtor is alleged to be in the process of leaving the jurisdiction of the court or removing property from the jurisdiction of the court that may be applied to the satisfaction of the judgment. Should they not agree to the conditions set by the court,

the defendant may be committed to jail for *Contempt of Court*. Execution of any order for civil arrest, or any seizure or attachment of property, will only be performed by a sworn law enforcement officer. It is desirable, although not mandatory, to bring the arrested person directly before the judge while court is in session.

10. Claim and Delivery (also known as Writ of Replevin) is a legal action to take property from one who wrongfully withholds it and to give it to another who has a plain legal right to its possession. The first step in a claim and delivery action is the service of a summons and complaint.
11. If the plaintiff does not decide to have the property in question seized immediately, that is, before the expiration of the 30 days normally allowed a defendant to answer a complaint, the only process to be served is a summons and complaint. No property is taken until a court hearing is conducted and a decision made concerning the party entitled to possession of the property.
12. If immediate delivery of the property is claimed, however, an affidavit must also be included in the papers to be served to the defendant. Attached to the affidavit must be a notice of the defendant's right to a pre-seizure hearing. The notice informs the defendant that within five (5) days of the service of the summons, complaint, and affidavit, they may demand a hearing concerning the validity of the plaintiff's claim for immediate possession and their right to continue in possession of the property.
13. In addition to the summons, complaint, affidavit, and notice of a right to a pre-seizure hearing, it is also necessary for the plaintiff to include in the papers to be served a written undertaking (bond) executed by one or more sufficient sureties approved by the Sheriff, to the effect that they are bound in double the value of the property in question.
14. If the defendant fails to demand a pre-seizure hearing within five (5) days of service, the court may then rule on who has right to possession. If a pre-seizure hearing is demanded, the court will rule at that time whether the plaintiff's claim for immediate possession should be allowed.
15. No property will be seized unless five (5) days' notice and an opportunity to be heard have been afforded the party in possession of the property in question. However, there are two circumstances under which the judge or Clerk of Court may order the Sheriff to take

immediate possession of the property without allowing for a pre-seizure hearing. If either an affidavit showing that the defendant has waived their right to a pre-seizure hearing or an affidavit of probability of damage or concealment is filed with the court, a copy thereof will be served to the defendant in lieu of serving them with a notice of right to a pre-seizure hearing.

16. The Sheriff should retain possession of disputed property until the matter has been disposed of according to law. If the court has already ruled in favor of the plaintiff, the property may be delivered to them. It is also possible the defendant may retain possession by posting a re-delivery bond prior to delivery of the property to the plaintiff.
17. Only a Sheriff or their duly appointed deputy or a magistrate's constable is empowered to break into a residence under civil process, and the authority to do so may be exercised only in claim and delivery unless such authority is granted in other types of civil actions by special statute. A deputy sheriff must use no more force than is necessary to break and enter, and they must act reasonably throughout the entire proceeding. Such breaking of the building or enclosure should take place only when the deputy sheriff has personal knowledge that the particular article is, in fact, concealed in the building or enclosure.
18. The summons, complaint, affidavit, notice and bond may be served to the defendant personally if they can be found, to their agent who may have the property and from whom it is to be taken or, if neither can be found, to some person of suitable age and discretion who may be at the usual place of abode of either the defendant or their agent.
19. Custody orders to pick up minor children must be registered with the Charleston County Clerk of Court prior to service. To determine if the order has been properly registered, the order should contain, at a minimum, the Clerk of Court stamp showing the date and time of registration, along with the Clerk of Court stamped signature (normally on the first page). Custody Orders should contain language in the body of the writ that specifically directs the Sheriff or any law enforcement officer to immediately take physical custody of the child and who the physical custody of the child is to be turned over to. If this is not in the body of the writ, a minor child may be placed in Emergency Protective Custody in accordance with the Sheriff's Office policy, if circumstances warrant. If there are any questions as to whether or not a custody order is enforceable, the deputy sheriff should contact the Civil Process Section for direction.

G. Seized Property Disposal:

1. When the Sheriff takes the lands, tenements, goods, and chattels of any person by virtue of a writ of execution and that person does not satisfy the debt, damages, and costs of the judgment creditor within five (5) days, the Sheriff may sell, by public auction, as much of the property as needed for the best price in order to satisfy the judgment. If the plaintiff bids, they may credit the amount bid to his execution and need not pay cash as long as all costs of the sale are paid. This is true only when the plaintiff is the first writ holder, and their credit bid does not exceed the amount of his writ of execution.
2. An execution sale does not have to be approved by the court, but a sale may be set aside if there is a gross inadequacy in price bid which would shock the conscience or raise the presumption of fraud, unfairness, or mistake. If the property being sold is personal property, the sale can be conducted on any day of the week, Monday through Friday, after the sale has been advertised for fifteen (15) days (e.g., once a week for two weeks) before such sale. The sale of personal property may be at any convenient place in the county and should be designated in the advertisement.
3. If the property being sold is real estate, the sale can only be conducted on the first Monday of each month. If the first Monday is a legal holiday, the sale will be on the Tuesday after the holiday. The sale of real estate must be advertised for twenty-one (21) days (e.g., once a week for at least three weeks) prior to such sale. The place of sale of real property must be at the courthouse of the county.
4. The advertisement should specify the property to be sold, the time and place of sale, the owner of the property, the party at whose suit the sale is to be made, and the terms of the sale. The advertisement should be posted at three public places in the county, one of which will be at the courthouse door. Publication of the advertisement must be made in a newspaper before the day of sale, and the hours of sale will be between 11 a.m. and 5 p.m.
5. In all sales of real estate made by authority of a writ of execution, the bidding is not closed on the day of sale but remains open for thirty (30) days after the day of the sale. Within the thirty-day period, any person other than the highest bidder at the sale may enter a higher bid, called an upset bid. In all cases where subsequent upset bids are made, the five percent bid deposits of the lower bidders must be returned to them within two days with a notice that their bids have

been raised. To comply with the terms of sale, the upset bidder must make a deposit of five percent of the bid to the Sheriff as a guarantee of their good faith.

6. At 11 a.m. on the thirtieth (30th) day after the sale, exclusive of the day of sale, the bidding is reopened by the deputy sheriff who conducted the original sale, and the bidding is allowed to continue until the sale is concluded in the usual custom of auction to the successful highest bidder complying with the terms of sale.
7. Upon the completion of a judicial sale, the deputy sheriff making the sale must execute a conveyance to the purchaser giving to them the rights and interests to the property sold. When making a conveyance of any real estate sold by writ of execution, the conveyance should contain the name of the person owning the property executed on, the name of the judgment creditor, the date of execution and the date of sale.
8. Neither the Sheriff nor any of their deputies are allowed, directly or indirectly, to participate in any way in the purchase of any property being sold at any sale being conducted by the Sheriff's Office.
9. When the Sheriff enforces the collection of a judgment by levy of execution, they are required to collect not only the face of the judgment and costs incurred, but also interest on the amount of the judgment. The interest rate may be subscribed on the face of the document and accrues from the date of the judgment until paid. In the absence of a written agreement between the parties fixing a different rate of interest, the statutory rate is prescribed by §34-31-20 of the Code of Laws of South Carolina, 1976, as amended.
10. The Sheriff must pay to the proper person all money collected. All money received under an execution, whether by sale or otherwise, must be paid within thirty (30) days to the party or their attorney in whose favor the execution was issued. Any surplus funds resulting from the sale of real property should be deposited with the Clerk of Court for the benefit of the judgment debtor or other claimants.

(Ref: CALEA 84.1.8)

H. Eviction (Ejectment):

1. Eviction (Ejectment) is defined as an action to restore possession of property to the person entitled to it.

2. Upon receipt of a Writ of Ejectment, Writ of Possession, or a Writ of Assistance, it will be the duty of the Sheriff to execute the writ by serving a copy on the party in wrongful possession and giving them a reasonable time to voluntarily vacate the premise. In all cases possible, unless ordered by the courts to do otherwise, the party being evicted should be given ten (10) days to voluntarily vacate the premise. Deputy sheriffs should be reasonable and use discretion with regard to the eviction of ill or elderly persons. The chaplain or other local agency may be contacted to assist.
3. Deputy sheriffs may also be required to assist magistrate constables with landlord/tenant evictions. This will usually require a forcible entry. Deputy sheriffs, not constables, may make forcible entry into a premise by the least destructive means in order to effect the ejectment.
4. Seizure orders involving mobile homes should be carried out in the same manner as a normal eviction unless the court orders otherwise. Prior to a mobile home being moved, the deputy sheriff should verify that any delinquent taxes have been paid and ensure that the mover has secured a proper moving permit.
5. In all evictions, it is the responsibility of the plaintiff to provide the labor to effect the eviction, should the occupants not voluntarily vacate the premise. Personal possessions should be set out on a public street or highway and may be removed by the appropriate municipal or county official after a period of 48 hours or in the normal schedule of trash pick-up.
6. If the premise is found to be vacant, the plaintiff should be contacted in order that the property be secured. A copy of the paperwork may be left at the premise. There should ordinarily be no further involvement of the Sheriff's Office in this situation.

(Ref: CALEA 84.1.8)

I. Writ of Execution (Execution Against Property):

1. The Execution Section entries will contain the following information, with additional records on property disposal entered into the computer system, as required by statute:
 - a. name(s) of the plaintiff(s) and/or attorney and defendant(s);
 - b. check number received;

- c. service sheet number;
 - d. amount of funds collected;
 - e. date collected;
 - f. by whom collected;
 - g. amount applied to judgment;
 - h. amount applied to other costs; and
 - i. Sheriff's Office fee(s) collected. (Ref: CALEA 17.4.2, item)
- 2. Under the South Carolina Homestead Exemption statute certain property is exempt from levy, attachment or sale arising from any judgment granted or final process issued from the court.
 - 3. An execution is not a separate civil action, but it is part of the process of a civil action where judgment is sought from the court regarding a dispute between opposing parties. It is the duty of the Sheriff to serve executions and carry out the orders as directed by both magistrate court and the Court of Common Pleas.
 - 4. Once an execution has been issued, it has an active life for the same period of time as the remaining active life of the judgment itself. The party in whose favor judgment is given may, at any time within ten years after the entry of judgment, proceed to enforce such judgment by having a writ of execution issued to the Sheriff. The execution does not have to be renewed or reissued even though a return may have been made during such period.
 - 5. When the execution is against the property of the judgment debtor, it may be issued to the Sheriff of the county in which the judgment is docketed by the Clerk of Court. Executions may be issued at the same time to different counties where the debtor has property.
 - 6. An execution directed to the Sheriff must be attested to by the Clerk of Court, must be subscribed to by the party issuing it or their attorney, and must intelligibly refer to the judgment by stating:
 - a. the court which granted the judgment;
 - b. the county in which the judgment is filed;

- c. the judgment roll number;
 - d. the names of the parties;
 - e. the amount of the judgment, if for money;
 - f. the amount actually due therein; and
 - g. the time of docketing in the county to which the execution is issued.
- 7. If the execution is against the property of the judgment debtor, the Sheriff must satisfy the judgment out of the personal property of such debtor. If sufficient personal property cannot be found, then any real property belonging to them can be used.
 - 8. If the execution is against real or personal property of the judgment debtor that is in the hands of someone else, that property can be used.
 - 9. If the execution is against the person of the judgment debtor, the Sheriff must arrest such debtor and commit them to jail until they will either pay the judgment or be discharged according to law.
 - 10. If the execution is for the delivery of real or personal property of the judgment debtor into the possession of the plaintiff, the Sheriff must deliver the particularly described property to the party entitled thereto. If such a delivery cannot be made for any reason, then the Sheriff can resort to the same steps required of them if they had an execution against property.
 - 11. It is absolutely essential that the name given for the judgment debtor on the execution delivered to the Sheriff's Office by the plaintiff or their attorney are the same name for the person from whom property is being taken. Notice particularly such words as Jr., Sr., individual, corporate, P.A., etc.
 - 12. In order for the Sheriff to satisfy a judgment out of the real or personal property of the judgment debtor, they must bring such property into their possession or within their control. The method by which this is usually accomplished is through the making of a levy against the property to be sold.
 - 13. The Sheriff should take actual custody of the personal property at the time of levy. Personal property must be taken into possession or be

within the power of the Sheriff. Until the levy is removed, the property levied upon is placed in possession of and under the control of the Sheriff, but they may be taken by a receiver appointed by a court who does so by court order. Bank accounts are not subject to levy by the Sheriff.

14. A lien is created against personal property when a levy is made against it.
15. In order to create a lien against real property, the Transcript of Judgment must be entered in the book of Abstract of Judgments with the Clerk of Court. The lien continues for a period of ten (10) years from the date of entry.
16. Execution against such real property is simply the means provided for enforcing the judgment. In the matter of personal property of the judgment debtor, however, neither the granting of a judgment to a judgment creditor nor the issuing of an execution writ by a judgment creditor has any lien effect. A levy must be made to create a lien against personal property, and property levied upon can only be bound thereby for a period of four (4) months from the date of such levy.
17. After a levy is made, the deputy sheriff making the levy must make a memorandum (a notice of levy and a notice of Sheriff's Sale) in writing of such levy. The memorandum should include the date of the levy and a specific description of the property upon which the levy was made. A copy of the memorandum should be given to the judgment debtor, and the original should be attached to the writ of execution. When a levy is made, a "prima facie" presumption of satisfaction of the judgment exists, and a second levy cannot be made until the sale of the property shows otherwise.
18. If no property can be found upon which to levy, the Sheriff may return the writ of execution to the plaintiff or their attorney unsatisfied ("nulla bona"). Before a truthful return of "nulla bona" (no goods) can be made by the Sheriff, Civil Process personnel will research all the records available to the agency so that the agency can certify that there is no property in the name of the defendant upon which levy may be made. The records should be checked for personal and real property.
19. Before a levy is made on personal property, it must be determined if the property to be levied upon has adequate equity. The lien holder

(if any) should be contacted regarding the outstanding balance owed on the property. If it is determined that the property does not have adequate equity, it should not be levied on unless the court orders otherwise. To determine equity, the lien amount, the cost of the sale, and other applicable Homestead Exemptions should be used in the computations.

20. Prior to personal property being levied on, the plaintiff is required to place a deposit with the Sheriff's Office for the amount to cover the expense of the levy. The deposit covers the towing, storage, and advertisement of the property. The plaintiff should also be advised that if the cost exceeds the deposit amount, they are responsible for the difference. Likewise, if the actual cost is less than the deposit, the difference will be refunded. The cost of the sale, any applicable Homestead Exemption, and any valid lien will dictate the minimum bid of the property.
21. The deposit required for real estate to be levied covers the advertising cost. Ordinarily, real estate will be levied on regardless of the equity situation as the Sheriff's Office is not required to research this information. All property may be sold subject to any and all mortgages, liens, and encumbrances, if any. The cost of the sale and any applicable Homestead Exemption should be used to compute the minimum bid.
22. The plaintiff, in all cases, should be advised that in the event the property (real or personal) does not sell, they are responsible for the cost, and, therefore, the deposit will not be refunded. However, any lawfully incurred expense will be attached to the judgment.
23. The seizure of non-titled assets, though not expressly forbidden, is highly discouraged. A court order directing the Sheriff's Office to seize specific non-titled assets should ordinarily be required. This can be accomplished by the plaintiff or their attorney in supplemental proceedings. The burden of proof of ownership and a lawful levy rests with the Sheriff's Office.
24. Sometimes, attorneys will request a "nulla bona" return without requiring the Sheriff to first try to satisfy the judgment by contacting the debtor. If such requests are honored, the return should be recorded "nulla bona by request of the plaintiff's attorney."
25. A judgment creditor is entitled to enforce their judgment by execution. A judgment creditor has the right to control and direct

what proceedings should or should not be taken, therefore, their wishes and instructions, if lawful, should ordinarily be respected and obeyed when made known to the execution officer. However, the ultimate responsibility for the proper levy lies with the Sheriff.

26. When a number of executions against the same defendant are placed in the hands of the Sheriff, they should be satisfied in accordance with the order of their priority. If a writ of execution is to be enforced against real property, the priority of more than one writ is determined by the date the judgment was entered into the records of the court or the county where the property is located. If the writs are to be enforced against personal property, then priority is determined by the date of delivery to the Sheriff.
27. A deputy sheriff must stop proceedings if advised of bankruptcy. Bankruptcy must be verified.
28. Notice of appeal from adverse judgment may stay an execution.
29. If a business is funded through the U.S. Small Business Administration (SBA), there may be a prior lien through SBA.
30. Property may be subject to federal, state, or Uniform Commercial Code (UCC) liens.
31. By the beginning of each regular term of court from which the execution or judgment was issued, the Sheriff is required to make a return to the Clerk of Court of actions which still have active energy. The Sheriff must inform the Clerk of Court whether full, partial, or no satisfaction was made. If the Sheriff has fully executed the judgment, the process must return to the clerk with the manner of its execution attached to it. If the Sheriff has partially executed the judgment, or has not satisfied the judgment at all, the Sheriff must state in writing under oath the reasons why unable to make the execution.
32. In any event, the Sheriff must return all process which has ceased to have active energy to the Clerk of Court or plaintiff, and such return should be made on the first day of the term of court after such cessation of energy. Failure to do so or the making of any false return may subject the Sheriff or other deputy sheriff to action, penalty, or other consequence provided by law for neglect of duty.

V. Appendix:

A. South Carolina Statutes Pertaining to Enforceable Writs:

§15-39-10	Kinds of executions.
§15-39-20	Executions of course within (10) years.
§15-39-30	Issuance of execution; effective period.
§15-39-40	Counties to which executions may be issued.
§15-39-80	Contents of executions.
§15-39-90	Execution of judgments of inferior courts.
§15-39-100	Execution constitutes no lien on personal property prior to levy.
§15-39-110	Sheriff may break into house in certain cases.
§15-39-120	Sheriff to keep memorandum of levy; schedule.
§15-39-130	Returns.
§15-39-140	Failure or neglect to make return.
§15-39-150	Sheriff must give notice of money collected.
§15-39-310	Order for discovery of property.
§15-39-340	Debtor of execution debtor may pay debt to Sheriff.
§15-39-350	Examination of debtors of judgment debtor.
§15-39-610	Property taken under execution.
§15-39-620	Estates held in trust may be sold.
§15-39-630	Where and by whom sales made.
§15-39-640	Sheriff shall make judicial sales; fees.
§15-39-650	Sheriff shall advertise sale of property.
§15-39-660	Contents of advertisement of sale; manner of publication.
§15-39-670	Advertisement of sale in counties containing cities over 60K by 1930 census.
§15-39-680	Judicial sale days.
§15-39-690	Hours of sale.
§15-39-700	Place of sale.
§15-39-710	Sheriff's Execution on sales shall be for cash; resell.
§15-39-720	Upset bids within 30 days on foreclosure or execution sale.
§15-39-750	Return of deposit when bid is raised.
§15-39-780	Sale of debtor of property subject to levy and sale; proceeds shall be paid over to Sheriff.
§15-39-790	Sale of debtors of property subject to levy and sale; confirmation of sale and deed.
§15-39-800	Sale of debtor of property subject to levy and sale; proceedings of judgment creditors object to sale.
§15-39-810	Sale of debtor of property subject to levy and sale; endorsement on conveyance in case of objection.
§15-39-820	Sale by debtor of property subject to levy and sale; proceedings when sale by Sheriff brings more.

§15-39-840	Conveyance of real estate sold under execution.
§15-39-850	Successors of selling officers may make title.
§15-39-860	Recording and indexing of execution conveyance.
§15-39-880	Certain liens extinguished by sale when lien creditor is a party to proceeding.
§15-39-890	Reacquisition of property by lien debtor.
§15-39-900	Proceeds paid to prior judgment lienor.
§15-41-10	Minimum bid.
§15-41-20	Setting homestead aside; exempted amounts collected to deposited with clerk of court.
§15-41-30	Property exempt from attachment, levy, and sale.
§15-41-120	Waiver of homestead.