

# ORANGE COUNTY SHERIFF'S OFFICE



## GENERAL ORDER

<b>Effective Date:</b> October 4, 2023	<input checked="" type="checkbox"/> <b>Amends</b> - GO 20.1.1 (July 31, 2020)	<b>Number:</b> 20.1.1
<b>Distribution:</b> All Personnel	<b>Review Month:</b> September	<b>Reviewing Authority:</b> CSCD / Judicial Process
<b>Subject:</b> Legal Service of Process Procedures And Guidelines		

This order consists of the following:

1. Purpose
2. Policy
3. Definitions
4. Procedures

### 1. Purpose

The purpose of this policy is to provide guidelines to personnel not assigned to Judicial Process on the service and execution of legal process. Guidelines for Personnel assigned to Judicial Process are covered in SO [35.0](#).

### 2. Policy

It is the policy of the agency to fulfill the requirements of all legal process in a timely and effective manner.

### 3. Definitions

- A. Certified Copy - a copy of a document signed and verified to be true by the Clerk of Courts to whom the original is entrusted.
- B. Child Custody Order - a court order directing who shall be the custodian of a child and who shall have visitation rights to that child. A child custody pickup order is similar in that it names who shall have custody of a child. However, it also specifically authorizes a law enforcement officer make a demand or to pick up the child and deliver him or her to the custodian.
- C. Defendant/Respondent - the person against whom a criminal or civil action is brought, i.e., the party against whom relief or recovery is sought in an action or suit.
- D. Foreign Process - all process issued outside of the State of Florida.
- E. Notice of Hearing/Notice to Appear - a notice that commands a person to appear before the court on a specific day/time.
- F. Plaintiff/Petitioner - a person who brings an action in a court of law. i.e., the party who complains or sues.
- G. Process - the paper notification from a court which compels an individual to

- perform an action such as appear as a witness, produce evidence, or relinquish property. The definition of process also includes Enforceable Writs.
- H. Purge - information on how to resolve the charge and/or avoid being arrested.
  - I. Return of Service - a short written account of the manner in which process was executed. The return is evidence to the court of the service or non-service of process on the defendant/respondent.
  - J. Service of Process- the process is made by delivering a copy of it to the person to be served with a copy of the complaint, petition, or other initial by other processes defined by [FS 48](#).
  - K. Substitute Service - service of process upon a defendant in any manner, authorized by statute or rule, other than by personal service within the jurisdiction.
  - L. Usual Place of Abode - current residence of person to be served.
  - M. Writ - A writ is usually directed to a Sheriff for service or execution.
    - 1. Non-Enforceable Writ - an order issued by a court which does not specifically direct the Sheriff to take action against a person or property. A deputy can only make service on this type of writ and cannot take enforcement action.
    - 2. Enforceable Writ - an order issued by a court directing the Sheriff to take physical action against something or someone by seizing property or taking a person into custody. An enforceable writ will only be executed by a Sheriff or his deputy.
  - N. Writ of Bodily Attachment/Order of Arrest - a civil court order only issued by a judge, commanding the Sheriffs of the State of Florida to attach a body (arrest an individual) and deliver the person to a judge during regular court hours, or on the next working day after the person is incarcerated.
  - O. Writ of Execution - the culmination of a court action whereby the plaintiff has obtained a money judgment against one or more individuals, a partnership, or corporation. It commands the Sheriff to seize (levy) the goods of an entity or person(s), usually the defendant, sell them at a public sale, then turn the proceeds over to the plaintiff to satisfy the judgment.
  - P. Writ of Ne Exeat - an order issued by the court requiring an individual to remain within the jurisdictional limits of the court.
  - Q. Writ of Possession - commonly referred to as an eviction. It is the final step in the process whereby the plaintiff regains possession of real property, such as a house, apartment or business location from a tenant. The writ can be issued for failure to pay rent, mortgage foreclosure, or any other reason for which the property owner wishes to recover residential or commercial property from a tenant.
  - R. Writ of Replevin - an order from the courts directed to the Sheriff to take goods or

property from someone and return it to the rightful owner or lien holder.

#### 4. Procedures

##### A. Foreign Process

1. Deputies shall not execute an out of state writ, order or other process unless it has been properly vetted and domesticated through Florida courts, or an exception listed below.
  - a. Executing an Injunction for Protection from any state or US territory as these orders do not need to be domesticated beforehand, or;
  - b. A Child Custody Order that is attached to an original Injunction for Protection under the same court case number does not need to be domesticated beforehand and can be executed by the Sheriff or his deputies.
2. The Sheriff or the deputies have no authority to serve/execute process in a foreign jurisdiction. The plaintiff must assume responsibility for verifying service.

##### B. Service of Process

1. Deputies shall serve or execute on an Original, Court Certified Copy or Sheriff's "True Copy" of process.
2. Service of process is completed upon explaining the contents of the writ or order to the individual. The physical acceptance of process is not a requirement of service. Once the process has been explained, if the individual refuses acceptance, the process will be left at that location.
3. Refusal to accept process must be noted on the return. The return must have written on it:
  - a. The time when it came into possession of the one serving it
  - b. The time when executed
  - c. The manner of execution
  - d. Name of person on whom it was executed
  - e. Position occupied if the person was served in a representative capacity
4. Substitute service is generally accomplished by leaving the copies of process at the person's to be served usual place of abode with any person residing therein who is 15 years of age or older and informing said person of the content of the process. Substitute service cannot be used when serving injunctions or other similar enforceable writs.

##### C. Minor Service

Service on a minor who is or has been married is accomplished in the same manner as that provided on an adult. Minors who have never been married shall be served by serving a parent, guardian, or, if one is appointed, a legal guardian or guardian ad litem.

##### D. Providing Legal Advice

Deputies shall not engage in the illegal practice of law, as defined in FS [454.23](#) or recommend attorneys.

- E. Reading Writs or Orders  
Deputies shall read each writ or order and become familiar with its contents prior to taking action against a person or property. All writs or orders will be read carefully and directives of the court followed explicitly.
  - 1. If a deputy is unsure about what action is to be taken the supervisor shall be consulted.
  - 2. If the supervisor is unsure what action to be taken, Legal Services shall be consulted.
- F. Personnel shall not forcibly enter a premise to execute process unless specifically ordered by the court.
- G. All writs or orders must be signed by a Florida Circuit Court judge. Original signature stamps are acceptable. Deputies shall act on an original or certified copy of an original writ/order.
- H. Deputies shall arrest a defendant based on a teletype from another Florida Sheriff's Office advising that they hold an arrestable writ or order.
- I. Proper identification of the defendant/respondent is essential prior to service of process.
- J. The original copy of the return must be completed by the deputy and forwarded to the Judicial Process Section.
- K. Notification  
Deputies shall notify the Judicial Process Section when process is served or executed.
  - 1. The Judicial Process Section is open 8:00 a.m. to 5:00 p.m., Monday through Friday, excluding holidays.
  - 2. After hours, notification will be made to the Warrants Unit.
- L. Requests for service of the following writs will only be accomplished by the Judicial Process Section:
  - 1. Writ of Execution
  - 2. Non-Enforceable Process
  - 3. Writ of Possession
  - 4. Writ of Replevin
  - 5. Writ of Ne Exeat
- M. Whenever possible, before executing a child custody pickup order, the person named to receive the child should be available for immediate acceptance. If the individual is neither present nor available, the child should be taken to the Department of Children and Families.

N. Ex-Parte Mental Health Order

1. Upon receipt of an Ex-Parte Mental Health Order, a supervisor shall read the order to confirm its validity, and determine if immediate execution is necessary. These orders are only valid for (7) days, and due to the nature of the order they will be treated as priorities, and executed as soon as possible.
2. Two (2) deputies shall be assigned to handle each of these for officer safety purposes.
3. The assigned deputies shall read the orders before service.

O. Child Custody Order

1. The deputy shall conduct a criminal history check on the person named in the order, to whom the child is to be turned over to.
2. If the deputy becomes aware of any criminal history that may place the child in imminent danger, or to be turned over to a sexual offender, the deputy shall notify their supervisor and if deemed appropriate contact Legal Services.