

## Civil Process Operations

### Performance Outcome 4.1 1.1

Serve civil process papers and/or make proper return.

#### Training Objective Related to 4.1 1.1

1. Given a written and/or practical exercise, identify different types of civil process papers, the proper service of each, and the required return of service, and officer safety procedures.

2. Given a written exercise, identify deputy safety procedures during the course of serving civil paperwork.

**Criteria:** The trainee student shall be tested on the following:

4.1.1. 1.1.1. Define civil process.

4.1.2. 1.1.2. Define Identify the purpose of civil process.

4.1.3. Identify who may legally serve civil process.

4.1.4. 1.1.3. Identify the daily procedure for obtaining civil process papers from the courts.

4.1.5. 1.1.4. Identify other sources from which a Sheriff may receive civil papers for service.

4.1.6. 1.1.5. Identify days on which civil process papers may not legally be served.

4.1.7. 1.1.6. Identify officer deputy safety procedures to utilize in when serving civil process papers.

4.1.8. 1.1.7. Identify persons exempt from civil process service.

4.1.9. 1.1.8. Identify the three (3) ways service upon a natural in which a person may be accomplished served.

4.1.10. 1.1.9. Define Identify the following legal papers and describe their purpose:

4.1.10.1. 1.1.9.1. Attachment

4.1.10.2. 1.1.9.2. Subpoena for the production of documents/Subpoena Duces Tecum

- 4.1.10.3. [1.1.9.3.](#) Distress warrant
- 4.1.10.4. [1.1.9.4.](#) Garnishment
- 4.1.10.5. [1.1.9.5.](#) Motion for judgment
- 4.1.10.6. [1.1.9.6.](#) Notice for **of** motion for judgment (distinguish between General District Court and Circuit Court versions)
- 4.1.10.7. [1.1.9.7.](#) Protective Orders
- 4.1.10.8. [1.1.9.8.](#) Show Cause Summons
- 4.1.10.9. [1.1.9.10](#) Summons for Unlawful Detainer
- 4.1.10.10. [1.1.9.11.](#) Summons to Answer Interrogatories (general district court; circuit court to be covered in OJT)
- 4.1.10.11. [1.1.9.12.](#) Warrant in Debt
- 4.1.10.12. [1.1.9.13.](#) Warrant in Detinue
- 4.1.10.13. [1.1.9.14.](#) Witness Subpoena
- 4.1.10.14. [1.1.9.15.](#) Writ of Fieri Facias
- 4.1.10.15. [1.1.9.16.](#) Writ of Possession in Unlawful Detainer **Eviction**
- 4.1.10.16. [1.1.9.17.](#) Writ of Possession and Fieri Facias in Detinue
- 4.1.11. [1.1.10.](#) Identify types of process requiring personal service.
- 4.1.12. [1.1.11.](#) Identify **the** time period for return after process is served.
- 4.1.13. [1.1.12.](#) Identify the period of time permitted by law for the execution of the following papers:
  - 4.1.13.1. [1.1.12.1.](#) Attachment
  - 4.1.13.2. [1.1.12.2.](#) Distress warrant
  - 4.1.13.3. [1.1.12.3.](#) Garnishment summons
  - 4.1.13.4. [1.1.12.4.](#) Writ of Fieri Facias
  - 4.1.13.5. [1.1.12.5.](#) Writ of Possession in Unlawful Detainer **Eviction**
  - 4.1.13.6. [1.1.12.6.](#) Writ of possession and Fieri Facias in Detinue

4.1.14. 1.1.13. Define Identify the information that must be included on a return of process by the Deputy.

4.1.15. 1.1.14. Identify the penalty for failing to make a return or making an improper return.

**Lesson Plan Guide:** The lesson plan shall include the following: all items listed in the Criteria section and the additional information below.

1. Definition Define of civil process as. Civil process is the method by which citizens may seek a legal action from the courts for an activity in which they are somehow involved.

a. Process is also a means whereby by which a court enforces obedience to its orders. ~~Process is termed:~~

~~a.~~ b. Original process, is when it is the Court intended to compel the appearance of the defendant.

b. ~~c.~~ Mesne process, is when an issued pending suit to secure the attendance of jurors and witnesses.

c. ~~d.~~ Final process, is when issued to enforce execution of a judgment.

2. Purpose of civil process:

a. To provide timely notice to person(s) or legal entities of pending legal action in which they are somehow involved.

b. To serve notice of the pending legal action in accordance with the law as it pertains to the particular legal document required by the specific legal action.

3. Who may legally serve civil process:

a. Any Sheriff or Deputy Sheriff

b. Any person eighteen ~~(18)~~ years of age or older who is not a party to, and has no interest in the controversy may serve civil process. ~~z~~ (§ 8.01-293)

c. Police and High Constable and Treasurer

d. High Constable

e. Treasurer

4. Procedure for obtaining civil process papers from the courts daily:

a. Every court served by a Sheriff's office must be contacted daily to determine if there are any civil process papers to be served-

b. Contact by telephone is permissible but should be made only with a regular employee of the clerk of the courts office- ~~z~~ (§ 8.01-294)

c. Maintain effective relations with court personnel/officials

5. Identify other sources from which a Sheriff may receive civil process papers for service-

a. Civil process papers may come from any court in the Commonwealth and may be directed to any Sheriff of, and executed in any county, city or town in the Commonwealth- ~~z~~ (§ 8.01-292)

b. Any civil papers that come to the hand of the Sheriff in a lawful manner shall be served in accordance with Title 15.2-

6. Identify days on which civil process may not be legally served, ~~z~~ (§§ 2.2-3301; 8.01-289)-

7. Read court papers to determine the proper/best order of action/service

a. Recognize types of paperwork that must be documented upon receipt (came to hand)

~~7.~~ 8. Identify officer deputy safety procedures to utilize in the service of process:

a. Identify potential safety concerns through clues that may be present on papers to serve- (ex. i.e., Vicious dog suit, violent divorce action, etc.)

b. Identify possible need for backup if you it is suspected that suspect service may generate high emotions or violence- (ex. i.e., Removing a child from the home, domestic protective order due to domestic violence, evictions, etc.)

c. Identify steps to be taken prior to service:

~~1.~~ (i). Park vehicle for easy access, cover, or escape (if necessary)-

~~2.~~ (ii). Prior to exiting vehicle at the scene, carefully scan the area to check for any threats or hazards ~~to your safety.~~

~~3.~~ (iii). Notify ~~with~~ the dispatcher giving location in cases where you ~~expect~~ problems can be anticipated.

~~4.~~ (iv). Focus attention on the house and curtilage as you approach while approaching the residence, paying particular attention to the doorways, and windows, and others persons on scene.

~~5.~~ (v). Carry the process somewhere that it cannot be seen from the residence and it will not interfere with your hands.

~~6.~~ (vi). ~~When you reach the door do~~ Do not stand directly in front of the door or in front of any windows.

(vii). Stand by the frame of the door on the doorknob side. and if possible, keep the windows around or in the door under constant surveillance and listen for noises coming from inside the residence.

~~7.~~ (viii). When the door is opened, be ready to evade or counter any threat that may present itself.

~~8.~~ (ix). Always be alert and expect the unexpected.

~~8.~~ 9. Identify persons exempt from civil process service. (§8.01-327.2)

~~9.~~ 10. Identify ~~three (3)~~ ways that service upon a natural person may be accomplished:

a. Personal service: is an Actual actual handing of the process paper to the person named therein.

(i). If a person refuses to accept service, the process paper may be dropped at his their feet and the officer's deputy's return of service will indicate that personal service was made and reflect such service.

b. Substitute service on a family member: The Deputy requires that the deputy must ensure that the person served is:

~~1.~~ (i). A member of the family (~~husband, wife, parent, child, brother, or sister~~) or household

~~2.~~ (ii). A regular member of the household ~~sixteen (16)~~ Sixteen years of age or older

~~3.~~ (iii). Explained the nature of the civil process papers being served, without giving legal advice

~~4.~~ (iv). The person served must live at the address where service is made

c. Posting Posted service on the door: Attach means attaching the civil process papers to a door that appears to be the normal entry of the abode of the person named in the process:

~~1-~~ (i). Use methods that do not cause damage to the door such as a hanging paper or plastic bag or a rubber band to attach the civil process papers to the door-

~~2-~~ (ii). The date of posting and manner in which it was served should be noted on the process posted and on the return of service-

~~10-~~ 11. Define Identify the following legal papers and their purpose:

a. Attachment - a court order seizing specific property-

(i). Used both as a pre-trial provisional remedy and to enforce a final judgment

b. Subpoena for the Production of Documents/Subpoena Duces Tecum - a subpoena that requires the witness to produce a document or documents pertinent to a proceeding

c. Distress Warrant - similar to an attachment, it allows the Sheriff to attach to and or seize a tenant's goods/belongings, preventing them from being sold or moved

d. Garnishment - a legal procedure by which a person's earnings are required by court order to be withheld by an employer for the payment of a debt

e. Motion for Judgment -A motion asking the court to issue a judgment on at least one claim

f. Notice of Motion for Judgment (distinguish between General District Court and Circuit Court versions) - A motion made in writing, notifying the defendant or defendants of the day on which such motion shall be made, which day shall not be more than sixty days from the date of service of the motion (GDC)

g. Protective Order - a legal order issued by a magistrate or judge to protect the health and safety of an abused person (and his/her family or household members in some circumstances)

(i). Emergency Protective Order

(ii). Preliminary Protective Order

(iii). Permanent Protective Order

h. Show Cause Summons – a legal order compelling an individual to address the judge and explain why he or she did not abide by a court order (can be criminal or civil in nature)

i. Summons for Unlawful Detainer – a civil claim for an eviction from a property

j. Summons to Answer Interrogatories – part of the discovery process during a civil suit, requests for production of documents or written answers

k. Warrant in Debt – a pleading filed to initiate most civil claims for money in the General District Court

l. Witness Subpoena - a subpoena for the attendance of a witness to testify before a court

m. Writ of Possession in Unlawful Detainer Eviction– a court form (usually on yellow paper) that allows the Sheriff to evict and remove a tenant from a property

n. Writ of Fieri Facias - a post-judgment issued by the Clerk's Office at the request of the judgment creditor or agent, which commands the Sheriff to assist in enforcing the judgment by following specific instructions

(i). The purpose of the writ of fieri facias is to help the plaintiff obtain sufficient money out of the assets held by the defendant to pay the plaintiff's judgment against the defendant

o. Writ of Possession and Fieri Facias in Detinue – a post-judgment issued by the Clerk's Office at the request of the judgment creditor or agent for specific property

11- 12. Identify types of process requiring personal service:

a. Out-of-state process

b. Capias

c. Show Cause Order (generally) not required as personal service in COV

d. Protective Orders

e. Injunctions

- f. Attachment Summons on Co-defendant (business)
- g. Garnishment Summons on Co-defendant (business)
- h. Process for any person who is a party to the suit being served at a place of business/employment
- i. Officer (or management personnel) of the corporation when the corporation is the defendant
- j. Registered agent of a corporation
- k. Partner (when an action is against the partnership)
- l. Officers and agent of unincorporated orders, associations, and common carrier
- m. Decree (final disposition of divorce)
- n. Substantial risk order

~~12.~~ 13. Identify the time period for return of service after process is served-

a. Return of service must be made to the court no more than 72 hours after service is completed. ~~{§ 8.01-294}~~

~~13.~~ 14. Identify the time period permitted by law for the execution of civil process for the following papers:

a. Attachment – 30 days from date of issuance. ~~{§§ 8.01-541, 8.01-559}~~

b. Distress warrant – 90 days from date of issuance. ~~{§55-237} Repealed 10-1-2019 {§ 8.01-130.13}~~

c. Garnishment summons – 90 days to the issuing court, whether the court be General District or Circuit. ~~{§ 8.01-514},~~

(i). 180 days for wage garnishments

d. Summons for unlawful detainer – 10 days before the return date. ~~{§ 8.01-126}~~

e. Indemnifying bonds – 21 days to the Circuit Court with jurisdiction over the location in which the property resides. ~~{§ 8.01-368}~~

f. Writ of Fieri Facias – 90 days to the court from which it was issued. ~~{§ 16.1-99},~~

(i). 180 days for wage garnishments



g. Writ of possession and Fieri Facias in Detinue – 90 days from the date of issuance to the court from which it was issued-

h. Writ of ~~possession in unlawful detainer~~ Eviction– 30 days from date of issuance-

i. Sales – sale made under any order, warrant or process, and no particular time for return is designated, return shall be made forthwith- ~~z~~ (§ 8.01-499)

14. 15. Identify information that must be included on a deputy's return of process:-

a. That the process was served

b. That the service was in accordance with the law and court procedure, ~~z~~ (§§ 8.01-325, 8.01-296)

c. That the return was executed by the deputy sheriff who served the process, ~~z~~ and that it is noted on the original copy of the process

d. The ~~Deputy~~ deputy must sign his their name and the Sheriff's name to the return

e. The date and time service was made ~~must be noted~~

f. The manner of service, personal or substitute, ~~must be indicated~~

g. The return must include the following when substitute service is made:

1. (i). The person named in the process was not at his their regular place of abode-

2. (ii). The person served was at the regular place of abode and was not a temporary visitor or guest-

3. (iii). The relationship to the person named as a recipient on the process-

4. (iv). That the person served was at least sixteen (~~16~~) years of age or older-

5. (v). That the nature of the process was explained to the person on whom it was served-

6. (vi). When substituted service is effected by posting or left with a member of the family or household, the original and the copy left should bear a notation as to the date and manner in which it was served- ~~z~~ (§§ 8.01-296, ~~§8.01-325~~)

16. Perform the duties of a deputy with the awareness of personal and agency liability

~~15.~~ 17. Identify the Penalty penalty for failing to make a return or making an improper return:

a. The ~~officer~~ deputy may be subject to a fine, having a judgment rendered against him, or other penalty, (§ 16.1-101)

18. Make notes (e.g., tracking slips) to create a history of efforts/attempts to serve papers

19. Ensure that multiple attempts of service are at random times of the day

### **Performance Outcome 4.2 1.2**

Halt civil process proceedings due to the filing of bankruptcy.

### **Training Objective Related to 4.2 1.2**

1. Given a written ~~and/or oral~~ exercise, identify the procedure for halting civil process proceedings due to the filing of bankruptcy.

**Criteria:** The ~~trainee~~ student shall be tested on the following:

~~4.2.1.~~ 1.2.1. Define bankruptcy.

~~4.2.2.~~ 1.2.2. Identify who may file bankruptcy.

~~4.2.3.~~ 1.2.3. Identify the ~~four~~ (4) different types of bankruptcy.

~~4.2.4.~~ 1.2.4. Identify debts that are not affected by bankruptcy.

~~4.2.5.~~ 1.2.5. Identify the procedure for an ~~officer~~ a deputy to follow when ~~servicing~~ civil process and the debtor advises that he has they have filed for bankruptcy, during the service of a civil process.

**Lesson Plan Guide:** The lesson plan shall include ~~the following:~~ all items listed in the Criteria section and the additional information below.

1. Define bankruptcy: as ~~Bankruptcy~~ is a proceeding under federal law in which a person or business declares themselves unable to meet existing obligations and:

a. Petitions the bankruptcy court to take what assets they have and distribute them among creditors and then cancel any unsatisfied portion of those obligations.-(Chapter 7)

b. Petitions the court to allow them time to reorganize in the prospect of being able to meet their obligation in a reasonable period, but be excused from making payments of those obligations during the reorganization time frame- (Chapter 13 and 11)

2. Identify ~~Who~~ who may file bankruptcy:

a. Any person or business that resides in, does business in, or has property in this country may file bankruptcy-

3. Identify ~~The~~ four types of bankruptcy:

a. Chapter 7 pertains to a personal debtor

b. Chapter 11 pertains to a business

c. Chapter 13 is similar to Chapter 11 but involves personal reorganization as opposed to business reorganization

d. Chapter 12 is utilized by farmers, primarily in rural areas and the Midwest

4. Types of ~~Debts~~ debts not affected by bankruptcy:

a. Fines against a debtor for criminal action

b. Alimony payments

c. Maintenance or support payments, ~~school loans, debts obtained through fraudulent acts and taxes~~

d. School/student loans

e. Debts obtained through fraudulent acts

f. Taxes

5. Procedure for halting proceedings due to bankruptcy:

a. Bankruptcy supersedes civil claims against a debtor since it is a federal action-

b. Mere filing for bankruptcy is not an automatic guarantee that the debtor's petition will be accepted by the court-

c. The Sheriff should ask to see the debtor's claim of debtor acceptance by the Federal Bankruptcy Court-

d. If the debtor is unable to provide appropriate documentation, the Sheriff should:

- ~~1. (i).~~ Seek immediate legal counsel with the Commonwealth, City or County.
- ~~2. (ii).~~ Serve the process or make the levy to protect the plaintiff's interest in the civil action, then seek immediate legal counsel.

### **Performance Outcome ~~4.3~~ 1.3**

Notify jurors for potential jury service when assigned.

### **Training Objective Related to ~~4.3~~ 1.3**

1. Given a written and/or oral exercise, identify the steps related to juror notification.

**Criteria:** The trainee student shall be tested on the following:

~~4.3.1.~~ 1.3.1. Identify means of Summoning summoning a juror: for assigned jury duty.

~~4.3.1.1.~~ Regular jury summons

~~4.3.1.2.~~ Grand jury summons

~~4.3.2.~~ 1.3.2. Identify the process for Excusing excusing a juror from service.

~~4.3.3.~~ 1.3.3. Identify the process by which Notification to jurors are to be notified regarding rescheduling/cancellation of trials after having been summoned for a particular term.

**Lesson Plan Guide:** The lesson plan shall include the following: all items listed in the Criteria section and the additional information below.

1. Identify the process of summoning a juror:

- a. A potential juror is summoned using the rules of service of process upon natural persons.
- b. A potential juror is served at the place of employment.
- c. A potential juror is served by leaving a copy of the summons with the person in charge at the potential juror's place of employment.
- d. A potential juror is served by mailing a copy of the summons to the juror at least ~~7~~ seven days prior to the date the juror must appear. ~~(§ 8.01-298)~~

e. Grand Jury summonses-

2. Identify the process of Excusing excusing a juror from service:-

a. No Sheriff or any of his their personnel may lawfully excuse a juror-

b. Potential jurors must contact the court if they feel they have a lawful basis for dismissal from jury service-

c. Only the judge may lawfully excuse a potential juror-

3. Identify the process of notifying Notification to jurors of rescheduling/cancellation of trials after having been summoned for a particular trial-

a. Once initially summoned, jurors may be notified by telephone of rescheduling/cancellation of trials:-

~~a.~~ b. Juror questions regarding term of service, where to report, date and time to report, proper attire, and who to contact in case of an emergency should be answered-

~~b.~~ c. Jurors should be advised regarding of any hotline numbers the court may utilize that they may call to check on the cancellation or rescheduling of trials-

d. Juror may be directed to a government website

#### **Performance Outcome 4.4 1.4**

Execute levies a levy.

#### **Training Objective Related to 4.4 1.4**

1. Given a written or practical exercise, identify the steps involved in executing a levy.

**Criteria:** The trainee student shall be tested on the following:

4.4.1. 1.4.1. Define levy.

4.4.2. 1.4.2. Define Writ of Fieri Facias.

4.4.3. 1.4.3. Identify the steps to be taken by a deputy when a Writ of Fieri Facias is received.

4.4.4. 1.4.4. Identify the steps to be taken by a deputy when several Writs are received on the same day.

4.4.5. 1.4.5. Identify what types of property that may be levied and/or seized under a Writ of Fieri Facias, and the time in which when this must be done.

4.4.6. 1.4.6. Identify types of bonds.

4.4.7. 1.4.7. Identify methods to determine the value of property to be levied.

4.4.8. 1.4.8. Perform basic math functions to determine total amount of property to be levied in a case scenario.

4.4.9. 1.4.9. Identify the steps involved for a Sheriff's sale.

4.4.10. 1.4.10. Identify information to be gathered related as it relates to animals on the premises, prior to a levy.

4.4.11. 1.4.11. Identify information to communicate to the defendant during and following immediately after a levy is executed.

**Lesson Plan Guide:** The lesson plan shall include the following: all items listed in the Criteria section and the additional information below.

1. Define a levy – A levy is as the act of a Sheriff in subjecting a property to the satisfaction of a court judgment.

2. Define a Writ of Fieri Facias – A Writ of Fieri Facias is as a legal document issued by the court that commands the deputy to make money out of the goods and chattels of the person against whom the judgment has been rendered. (§ 8.01-474)

3. Identify the steps to be taken by the deputy when a Writ of Fieri Facias is received:

a. Endorse on each Writ of Fieri Facias the date and time it was received.

b. Note the date and time the tangible personal property of each debtor has been levied.

c. Leave a copy of the Writ where the levy was made on each judgment debtor or other responsible person at the premises.

(i). If no such person is present, the Writ shall be posted on the front door of such premises. (§ 8.01-487.1)

(ii). Issue documentation of personal property/levied items

4. Identify the steps to be taken when several Writs are received on the same day:

- a. That which was first delivered to the deputy, though two or more shall be received on the same day, shall be first levied and satisfied, and
  - b. When several such executions are delivered to the deputy at the same time they shall be satisfied ratably. (§ 8.01-488)
5. Ensure ~~officer~~ deputy safety when entering a premise to conduct a levy or seize property under a Writ of Fieri Facias:
  - a. Do not hesitate to call for backup.
  - b. Inform dispatch of ~~your~~ location and situation and maintain communication.
  - c. Request assistance from animal control authorities when the situation warrants.
6. Identify what property may be levied on or seized under a Writ of Fieri Facias:
  - a. Current money and bank notes.
  - b. Goods and chattel of the judgment debtor, except those exempt under [Title 34-26](#) and [Title 34-4](#). (Reference Poor Debtor's Act and the Homestead Act).
7. Identify when property may be seized under a Writ of Fieri Facias.
8. ~~Bond issues:~~ Identify issues that may arise as related to bonds
  - a. A deputy seizing property in the course of a legal action may require that the party initiating the action provide a bond sufficient to protect the deputy (and the interest of all other parties in the action) against all costs and claims that may result from the seizure. § 8.01-367.
  - b. Identify the plaintiff's responsibility to obtain bond that must be double the amount of the value of the property to be levied.
  - c. Identify a forthcoming ~~Forthcoming~~ bond; also known as defendant's bond, as ~~This is~~ a bond posted by the defendant.
  - d. Identify a suspending ~~Suspending~~ bond; also known as a 3<sup>rd</sup>-party bond, as ~~This is~~ a bond that covers any 3<sup>rd</sup> party's interest in the case.
9. Determine the value of property to be levied:
  - a. The deputy is to make every effort in order to value property at fair market value and may use the following resources ~~to assist in this:~~

- ~~1. (i).~~ National Automobile Dealers Association (NADA) Books (for vehicles and boats)
- ~~2. (ii).~~ American Insurance Association
- ~~3. (iii).~~ Personal Property tax records
- ~~4. (iv).~~ Pawn Shop Blue Books
- ~~5. (v).~~ Replacement cost estimates
- ~~6. (vi).~~ Appraisal lists by experts
- ~~7. (vii).~~ Insurance adjusters

b. The deputy is under the obligation to levy sufficient property of debtor to reach the amount of the judgment or make notation that the amount of the property is insufficient to reach the judgment-

c. The deputy, in no case, shall make an unreasonable levy-

10. The deputy shall perform basic math functions that demonstrate knowledge of how to determine the total amount of property to be levied:

~~a. The deputy must be able to use basic math skills to compute payoff amounts and figure interest on levies.~~

~~b. a.~~ In a case scenario, the The deputy shall be able to demonstrate the ability to figure partial year interest by division and multiplication to achieve daily rates, and then figure interest for a set amount of days-

11. Identify the steps for a Sheriff's sale:

a. Deputy The deputy shall fix set date, time and place for sale-

b. Deputy The deputy shall post notice at least 10 days before the date of the sale at some place near the residence of the owner of the property and two or more public places in the city or county official places of business. (§ 8.01-492)

c. Sale shall be to the highest bidder for cash-

d. Sale may be adjourned from day to day if not completed on set day. (§ 8.01-493)

e. Any surplus monies remaining after satisfying the execution, such surplus shall be repaid to the debtor. (§§ 8.01-495, and 8.01-373)



f. Deputy The deputy that is handling the sale must make return (accounting thereof) forthwith to the clerk of the court. (§ 8.01-499)

g. Deputies may not bid at Sheriff's auctions §8.01-498

*~~Instructor Note: Advise trainees that employees of a city, town or county may not bid on nor purchase items at a sheriff's sale of the city, town, or county of which they are an employee. Class 1 misdemeanor. (§8.01-498)~~*

### Performance Outcome 4.5 1.5

Serve an eviction notices notice.

### Training Objective Related to 4.5 1.5

1. Given a written and/or practical exercise, identify the types of notice given an evictee and the method of service.

**Criteria:** The trainee student shall be tested on the following:

4.5.1. 1.5.1. Define Identify a 5-day Five-day/ and 30-day Notice of Eviction and identify methods of service.

4.5.2. 1.5.2. Define Identify a Summons for Unlawful Detainer.

4.5.3. 1.5.3. Define Identify a Writ of Possession in Unlawful Detainer eviction.

4.5.4. 1.5.4. Identify the Sheriff's obligation to give notice to the tenant.

4.5.5. 1.5.5. Identify the Sheriff's obligation to coordinate the eviction with the landlord before the eviction is scheduled.

4.5.6. 1.5.6. Identify Deputy deputy safety considerations: to take into account prior to service.

4.5.6.1. ~~Importance of gathering information prior to eviction~~

4.5.6.2. ~~Use of available backup deputies~~

4.6.6.3. ~~Interagency communications~~

4.5.6.4. ~~Command presence~~

4.5.6.5. ~~Communication skills to minimize antagonistic responses~~

4.5.6.6. ~~Appropriate escalation/de-escalation regarding use of force~~

~~4.5.6.7. Use of restraint procedures if necessary~~

~~4.5.6.8. Effecting an arrest if necessary~~

**Lesson Plan Guide:** The lesson plan shall include the following: all items listed in the Criteria section and the additional information below.

1. Identify five-day/ and 30-day notice: notices

a. Five-day notice of eviction is a notice that is given to tenants when the rent is in arrears-

(i). A five-day notice is not prepared by the court, but either by the landlord or his the landlord's attorney-

~~1-~~ (ii). A five-day notice may be served upon the tenant by the Sheriff, presented to the tenant by the landlord, or mailed to the tenant by the landlord by registered or certified mail-

~~2-~~ (iii). Service of a five-day notice is in accordance with the rules for service of process on a natural person if served by the Sheriff-

~~3-~~ (iv). A copy of the notice should be served on all defendants involved-

~~4-~~ (v). The Sheriff makes his their return on the original copy and gives it to either the landlord or his the landlord's attorney-

b. A 30-day Notice starts the official eviction process due to a breach of some condition of the lease-

2. Summons for Unlawful Detainer – ~~This~~ is an action taken by the court to summon the defendant (tenant) to appear in court for a hearing:

a. This summons covers the legal process for any situation in which the house, land or tenement is unlawfully detained by the person(s) in possession thereof-

b. The summons may be issued by ~~the~~ a judge, magistrate or clerk-

c. The tenant has a right to appeal ~~within ten days~~ the judgment of the General District Court-, but must do so within 10 days

3. Writ of Possession in Unlawful Detainer – ~~This Writ~~ eviction is an after-judgment action from the court:

- a. The Writ gives the Sheriff the authority to remove the tenant and ~~his~~ their belongings from the premises, restoring possession of the premises to the landlord.
- b. The tenant has a right to appeal ~~within ten days~~ the judgment of the General district Court, but must do so within 10 days

- (i). If the tenant has been delinquent more than once in a year, the landlord may ask for immediate possession.

4. Written notice from the Sheriff must be given Notice to the Tenant ~~The Sheriff must give written notice to the tenant~~ as to the date and time of the eviction, at least 72 hours before the eviction is to take place:

- a. This notice is prepared by the Sheriff; it is not furnished by the court.
- b. Three - five days notice is deemed sufficient, but is in accordance with the ~~code~~ Code of Virginia, §§ 8.01-470, or 8.01-471.
- c. The date and time may be reset by the Sheriff due to inclement weather or other unforeseen circumstance.

5. Coordination with the landlord:

- a. The Sheriff must coordinate the eviction with the landlord to ensure the landlord is prepared to remove the tenants' possessions from the premises, if necessary.
- b. The Sheriff may cancel the eviction if the landlord fails to make such preparations or otherwise comply with the conditions imposed regarding the eviction.

c. Search and secure the location of an eviction, prior to the landlord or locksmith entering the premises

6. Deputy safety considerations:

a. Importance of gathering information prior to eviction:

- ~~1.~~ (i). Check for information regarding a prior history of violence at the residence or if outstanding warrants are on file (VCIN/NCIC):

- ~~2.~~ (ii). Ask other deputies and check with 9-1-1 communications to see if residence has been flagged for disturbances.

~~1.~~ (iii). Ask if landlord has made any complaint regarding violence-

(iv) Verify warrants before execution (e.g., "in hand" to avoid false arrest)

~~2.~~ (iv). Identify any and all subjects that may be a party to the eviction-

~~3.~~ (v). Ask if the tenants have made any threats prior to the eviction-

~~4.~~ (vi). Identify if there are any known animals on the premises prior to the eviction and determine if there is a need to request assistance from local animal control authorities (~~check department policy~~).

b. Use of available backup deputy(s), ~~If~~ to assist if needed, ~~request backup deputies to assist in proportion to~~ based on the level of threat determined by the information previously gathered-

c. Identify policies on Interagency inter-agency communication:

~~1.~~ (i). Advise your agency regarding the exact location of the residence and the type of order that the deputy is executing-

~~2.~~ (ii). Advise 9-1-1 communications if the level of threat is high and request frequent deputy safety checks after arrival at the residence-

d. Utilize Command command presence:

(i). Most citizens recognize the authority of the uniform and badge and will follow the instructions of the deputy that are delivered in a straightforward, no-nonsense manner, while maintaining ~~that is~~ professional and courteous. professionalism and courtesy

e. Utilize Communication effective communication skills ~~that~~ to minimize antagonistic responses: ~~Some people will use vulgar language to a deputy. Vulgar language may be used as a defense by the person using it to try and retain some sense of ownership in a situation that is probably breaking them down. It may also be used to try and provoke a deputy into a physical confrontation. **DO NOT ALLOW ANOTHER PERSON'S LANGUAGE TO PROVOKE YOU.** Keep control of your voice level and tone. You may respond with a phrase such as "This type of situation isn't easy for anyone, but you need to follow my instructions to vacate this property."~~ Repeat instructions in a controlled, professional manner.

f. Do not allow another person's language to provoke anger, agitation, or other response

g. Maintain control of voice, tone, and language

h. Repeat instructions in authoritative, yet controlled, professional manner

f. i. Use Appropriate appropriate escalation/de-escalation techniques regarding use of force: when necessary

(i). If verbal attempts to calm people and direct them individuals regarding involved in the eviction do not work and the deputy is in danger of being assaulted, the deputy may be physically assaulted. Should a person physically assault a deputy in any manner, use any appropriate defensive tactics moves to protect yourself oneself and/or assist another deputy fellow deputy(s) being assaulted:

~~1. De-escalate the situation as quickly as possible using restraint procedures.~~

~~2. Determine if there are any weapons on the premises and secure same until the conclusion of the execution of process.~~

~~g. j. Restraint procedures: Depending on the situation, the deputy A deputy may physically restrain a person until the person calms down and agrees to behave appropriately or may have to handcuff a person to restrain him or her, if the situation warrants. Individuals may need to be separated so that order may be restored. Individuals may need to be physically removed from the premises for the eviction to proceed.~~

~~h. k. Effecting an arrest: Should an individual fail to comply with the instructions of the deputy or engage in unlawful behavior, the deputy may arrest the individual following all procedures for an arrest without a warrant.~~

~~***Instructor Note: Advise trainees to identify agency policy and procedures for eviction when an outstanding warrant exists.***~~

### Performance Outcome 4.6 1.6

Oversee the removal of physical property of evictee from premises.

### **Training Objective Related to 4.6 1.6**

1. Given a written ~~and/or oral~~ exercise, identify factors to consider in overseeing the removal of physical property of evictee from premises.

**Criteria:** The trainee student shall be tested on the following:

4.6.1. 1.6.1. Identify the Legal legal authority to break and enter a property to gain entry.

4.6.2. 1.6.2. Identify procedures related to the Removal removal of the defendant's property.

**Lesson Plan Guide:** The lesson plan shall include the following: all items listed in the Criteria section and the additional information below.

1. Legal authority to break and enter: ~~(Code of Virginia § 8.01-470)~~

a. Under a Writ of Possession in Unlawful Detainer eviction, the officer deputy has the authority to break and enter in the daytime after notice has been given to the tenant (if ~~he~~ they are to be on the premises) to restore possession to the landlord.

b. Entry may be made with a key if the landlord has one in possession.

c. A locksmith may be obtained utilized by the landlord to effect entry.

2. Identify procedures to Review review of the property before an eviction:

a. Walk through the property to and observe for any animals who may need care, and arrange for removal prior to locking up the property.

b. Observe Look for persons on the premises and if for weapons or illegal items are located on the premises and Secure then secure weapons them in trunk of car law enforcement vehicle until legal ownership can be established. determined

c. Secure any illegal items and notify supervisor for appropriate action to be taken in accordance with department policy.

d. Document chain of custody for seized contraband.

3. Identify processes for the Removal removal of the defendant's property:

a. Property must be deposited at nearest public way.

b. Tenant has the right to remove ~~his~~ their property from the public right of way during the ~~twenty-four (24)~~ 24-hour period after eviction.

c. After ~~twenty-four (24)~~ 24 hours, the landlord shall remove or dispose of any personal property remaining in the public way.

d. At the landlord's request, the Sheriff shall cause the personal property to be placed in a storage area designated by the landlord, which may be the dwelling unit-

(i). The tenant then may remove his belongings from the designated area at reasonable times during the ~~twenty-four (24)~~ 24 hours after the eviction, or at such other reasonable times until the landlord has disposed of the property therein-

### **Performance Outcome 4.9 1.7**

Interact with the public with awareness of deputy safety.

### **Training Objective Related to 4.9. 1.7**

1. Given a ~~written and/or~~ practical exercise, identify and demonstrate deputy safety procedures during interactions with the public in ~~civil process situations.~~

2. Given a ~~written and/or~~ practical exercise, identify the steps to take persons into custody for current or outstanding criminal charges.

**Criteria:** The ~~trainee~~ student shall be tested on the following:

4.9.1. 1.7.1. Demonstrate Deputy safety considerations procedures when interacting with the public:-

4.9.1.1. 1.7.1.1. Examine the physical condition of the ~~subject~~ an individual to determine any need for medical attention.

4.9.1.2. 1.7.1.2. Identify highrisk subject(s) individuals in crisis that may be at high-risk to deputies such as medical, mental, suicidal, and violent/ disruptive persons.

4.9.1.3. 1.7.1.3. Request assistance ~~or provide assistance (backup)~~ to control violent or unruly ~~citizens/arrestees~~ individuals.

4.9.1.4. 1.7.1.4. Identify methods to secure the a scene ~~when~~ after a critical incident has occurred.

4.9.2. 1.7.2. Identify the steps for taking persons an individual into custody for current or outstanding criminal charges:-

4.9.2.1. 1.7.2.1. Serve or execute return of service for any court document.

4.9.2.2. 1.7.2.2. Conduct a full search of a subject/arrestee an individual for weapons and contraband and document chain of custody for evidence.

4.9.2.3. ~~Summon medical staff for body cavity search.~~

4.9.2.4. 1.7.2.3. Search and inventory any personal property and issue receipt.

**Lesson Plan Guide:** The lesson plan shall include the following: all items listed in the Criteria section and the additional information below.

### 1. Body cavity search

a. **If probable cause exists for a body cavity search, obtain search warrant.**

~~1. Deputy safety considerations when supervising subject(s)/arrestee(s) in court:~~

~~a. Examine the physical condition of the subject to determine any need for medical attention.~~

~~b. Identify high risk subject(s) such as medical, mental, suicidal, and violent/disruptive persons.~~

~~c. Identify the steps needed to request assistance or provide assistance (backup) to control violent or unruly citizens/arrestees in accordance with deputy safety procedures.~~

~~2. Take persons into custody for current or outstanding criminal charges:~~

~~a. Explain and execute warrant on person to be taken into custody.~~

~~b. Place arrestee in restraints.~~

~~c. Move arrestee immediately from courtroom to secure area.~~

~~d. Perform full search of an subject/arrestee for weapons and contraband and document chain of custody for evidence per department policy.~~

~~e. Summon medical staff for body cavity search, if needed.~~

~~f. Inventory personal property, issue receipt and secure property.~~

~~g. Notify appropriate staff to have arrestee transported to jail.~~

***Instructor Note: Advise trainees that a recommendation may be made by the sheriff's office regarding special security needs, i.e. restraints, extra staff, etc.***