

	LANE COUNTY SHERIFF'S OFFICE POLICY	Number: G.O. 10.10
		Issue Date: March 21, 2005
		Revision Date: November 2, 2005
CHAPTER: Specialized Operations		Related Policy:
SUBJECT: Civil Process		Related Laws: Oregon Rules of Civil Procedure and Oregon Revised Statute (ORS)

POLICY: The Sheriff's Office will provide accurate and timely processing, serving, and returning of all court-related documents. ORS 206.010 GENERAL DUTIES OF SHERIFF. The sheriff is the chief executive officer and conservator of the peace of the county. In the execution of the Office of the Sheriff, it is the sheriff's duty to: (3) Execute the process and orders of the courts of justice or of judicial officers, when delivered to the sheriff for that purpose, according to law.

RULE: None

PROCEDURE:

I. Service of Civil Process

A. Service by time of day or day of the week (ORCP 7-C): Statute permits civil process to be executed or served on Sundays and holidays (there are no service restrictions pertaining to the day of the week or time of day).

B. Types of Notice process

1. Summons

- a. Complaint
- b. Petition

2. Notice of Claim (aka Small claims)

3. Subpoenas

- a. Criminal
- b. Civil

4. Extraordinary Writs

- a. Mandamus
- b. Review

c. Habeas corpus

5. Orders

- a. Show Cause
- b. Restraining –FAPA and civil orders
- c. Stalking

6. Citations

7. FED-Summons and complaint

8. Notice

- a. Restitution
- b. Finding

C. Types of Enforcement process

1. Writs of

- a. Assistance
- b. Execution
 - (1) Foreclosure
 - (2) Claim and Delivery
 - (3) FED “eviction”
- c. Garnishment
 - (1) Delivery of
 - (2) Property seizure

2. Orders

- a. Assistance
- b. Restraining- FAPA
- c. Claim and Delivery

D. Service Methods (ORCP 7-D)

1. Personal Service

Personal service shall be made by handing the document to the person named in the document.

2. Substitute Service

Substituted service may be made by delivering the document to any person 14 years of age or older residing in the dwelling house or usual place of abode of the person named to be served.

3. Office Service

Office service may be made, if the person to be served maintains an office for the conduct of business, by leaving the document at such office during normal working hours with the person who is in charge.

4. Tenant of a mail agent (private mail box)

At the request of the plaintiff, we may serve the person apparently in charge of where the mail agent receives mail for the tenant. (i.e. this is a service to a private mailbox)

5. Service to the Attorney of the defendant

An Attorney may accept service on behalf of a client or may refuse to accept service if he/she does not have authorization from the client. The only documents that may be served in this manner are documents that may be served by substitute service.

6. Service to a Business or Corporation

If there is no specific name to ask for, service may be made to any Corporate Officer or Managing agent. If the business is not incorporated, the owner or Managing agent may be served. If the business is a Limited Liability Corporation (LLC), only authorized persons may be served.

7. Initiating a Traffic Stop for service or enforcement of a civil document.

If a deputy has reasonable suspicion to believe that a defendant/respondent to a piece of notice or enforcement process held by the Sheriff's Office for service is in a vehicle, a traffic stop can be made to serve or enforce the civil paper. The deputy's work sheet should reflect the license plate, place of stop, and what constituted reasonable suspicion. Absent other circumstances arising from the stop, the scope and duration of the stop should not exceed that required to complete service or enforcement of the civil paper.

E. Types of Papers and Required Service

1. All court documents may be personally served

2. Substitute service may be made on

a. Summons

- (1) Complaint
 - (2) Petition by request of the petitioner only
- b. Notice or Claim (aka Small Claims)

F. Proof of Service

On all papers that are served, it is necessary to provide proof of that service. On all criminal subpoenas it is necessary to complete the proof of service on the original form.

G. Eviction, F.E.D., Forcible Entry and Wrongful Detainer (ORS Chapter 90 and 105.105 to 105.168)

1. Summons and Complaint -The first step is the Summons and Complaint that has to be personally served to the defendant. If the named defendants are not there, then it has to be posted to the main entrance to the residence.

***NOTE:** Must be served before midnight on the day listed for service

2. Notice of Restitution - The second step is the Notice of Restitution. Service of the Notice of Restitution is performed in the same manner as outlined for the service of the F.E.D. Summons and Complaint.

***NOTE:** Must be served before midnight on the day listed for service

3. Execution or Enforcement of the Judgment of Restitution - The third step is the Execution or the Enforcement of the Judgment of Restitution. This document by law is directed to the Sheriff and directs him/her to deliver possession of the premises to the plaintiff.

***NOTE:** May be enforced within 30 days from the date of receipt. Residence must be turned over to the plaintiff or the plaintiff's agent.

H. Restraining Order - Abuse Prevention Order (ORS 107.700)

1. Due to the nature of a Restraining Order, they are given priority and service should be attempted at least once a day. If, due to workload, a Restraining Order cannot be attempted, the deputy holding the order should document that on the work sheet.

2. There are three types of restraining orders.

- a. Family Abuse Prevention (107.700)
- b. Elderly Persons and Persons with Disabilities abuse prevention (124.010 to 124.050)
- c. Restraining order when child abuse alleged (419B.845 to 419B.846)

***NOTE:** Violations vary from type of order to type of order (i.e. Elder abuse includes no verbal abuse, where the standard FAPA order does not.)

3. Mandatory arrest on the above listed orders (133.310-(3): A peace officer shall arrest and take into custody a person without a warrant when the peace officer has probable cause to believe that; (a) there exists one of the above listed orders, (b) that a proof of service has been filed, or (c) the person to be arrested has violated the terms of the order.
4. Liability of peace officer making arrest (133.315): No peace officer shall be held criminally or civilly liable for making an arrest pursuant to ORS 133.055 (2) or 133.310 (3) or (5) provided the peace officer acts in good faith and without malice.
5. When the provision for child assistance is marked by the courts, and with prior notification to the supervisor of force potential, the use of necessary force may be employed to recover the child.
6. Foreign Restraining Orders (24.190):
 - a. A person protected by a foreign restraining order may present a true copy of the order to a county sheriff for entry into the Law Enforcement Data System...if the person certifies that the order is the most recent order in effect between the parties and provides proof of service or other written certification that the person restrained by the order has been personally served with a copy of the order or has actual notice of the order.
 - b. This order can be presented to any officer in the field. If you do not have a copy of the form "Foreign Restraining Order Certificate" have the petitioner sign your notebook, with a statement that this is the most current order, this is a true copy of the order and the respondent has been served the order personally. ORS 133.318 Class A Mis. for falsifying the above statement.
 - c. Mandatory arrest on a foreign restraining order (ORS 133.310 (4) The arrest for a foreign restraining order is the same as an Oregon FAPA order
7. LEDS entry of Restraining and Foreign Orders
 - a. Immediately after service of a Restraining Order the serving Deputy shall notify dispatch of the place and time of service. Dispatch shall then notify records for the data entry into LEDS.
 - b. Restraining Orders, as well as Foreign Orders, can be accepted any time of the day, any day of the week. A true copy of a Restraining Order and a notarized proof of service can be presented to the Sheriff's Office by the serving person or an attorney. See Foreign Restraining Order section for what is required for LEDS entry.

I. Stalking Order- by Petition and by Citation (ORS Chapter 30 and ORS 163.730 to 163.755)

1. Stalking Citation (ORS 163.735)

- a. Upon a complaint initiated as provided in ORS 163.744, a law enforcement officer shall issue a citation ordering the person to appear in court within three judicial days.
- b. Mandatory arrest (ORS 133.310)
- c. When a citation is issued it is entered into AIRS only.

2. Stalking Order by Petition (ORS 30.866)

The court may issue a temporary Stalking Order and Order of hearing upon petition. Service and enforcement is the same as a FAPA Restraining Order.

J. Civil Enforcement actions

1. The below listed actions and their documentation are very unique. The Civil Sergeant or the person designated by the Sergeant should review each enforcement action on a case-by-case basis.

- a. The documentation should be addressed to the Sheriff of Lane County or any peace officer in the state and should be “good on its face”.
- b. The documents should be reviewed for type of action and if the action the Sheriff is requested to take is lawful.

2. Types

- a. Writs of Assistance
- b. Orders of Assistance (107.437)
- c. Executions
 - (1) Till Taps
 - (2) Personal Property
 - (3) Real Property

K. Fees for Service and Execution of Civil Process

State Statute and county ordinance set Sheriff’s Office fees. See the civil staff for the current fee schedule.