

CIVIL PROCESS

*Overview of Duties,
Processes, Service Fees & Methods*

Clint Shrum

Criminal Justice Consultant



County Technical Assistance Service
INSTITUTE *for* PUBLIC SERVICE

Four Primary Duties of the Sheriff

1

Keeping the
Peace

2

Attending the
Courts

3

Serving the
Processes
and Orders of
the Court

4

Operating the
Jail

Duties of the Sheriff (Courts)

T.C.A. § 8-8-201(a)(1)

Serve, execute, and return	Serve, execute, and return, according to law, all process and notices
Attend	Attend upon the circuit courts, general sessions courts, and other courts as required
Furnish	Furnish the necessary deputies and officers for the service of process
Perform	Perform other duties as required by law

What is Civil Process?



Civil process is the front line of due process



It ensures the courts function properly and citizen rights are protected

What Does Civil Process Do?

Civil Process covers the legal procedures and documents (summons, complaints, writs, attachments, etc.) required to initiate and enforce civil actions.

It involves the issuance of documents through the court and serving them in compliance with Tennessee procedural rules (e.g., Tenn. Code § 16-15-901, § 8-8-201 Tennessee Rules of Civil Procedure Rule 4).

General Effective Service of Process

- The Sheriff must mark on the process the day on which the sheriff or other officer received it. Failure to do so could result in a \$125 fine. (TCA 20-2-103).
- Serve the process; execute all writs and other process legally issued and directed to the sheriff. T.C.A. § 8-8-201(a)(5)(A).
- Make a **timely**, due return of the process, either personally or by a lawful deputy. T.C.A. § 8-8-201(a)(5)(A)

Other Technical Details of Civil Process

- No service on Sunday (TCA 20-2-106) Exceptions 20-2-104 & 105 (deals with defendants removing property)
- Returns are required to be made in ink or some other non-erasable material or fluid. Failure is a Class A misdemeanor, and the person is liable for damages to any person(s) aggrieved by the violation. (TCA 20-2-11).

Service In Person

- TRCP 4.04(1) Upon an individual other than an unmarried infant or an incompetent person, **by delivering a copy of the summons and of the complaint to the individual personally,** or if he or she evades or attempts to evade service, by leaving copies thereof at the individual's dwelling house or usual place of abode with some person of suitable age and discretion then residing therein, whose name shall appear on the proof of service, or by delivering the copies to an agent authorized by appointment or by law to receive service on behalf of the individual served.

Service of Process / Right of Process Server, Refusal of Service (AG OP 01-148)

Does the sheriff have the right to enter upon private property to serve any legal writ or process

- Yes, the process server can go to the dwelling or usual place of abode of the intended recipient

Does a citizen or person of the State of Tennessee have the right to refuse legal process?

- No. A citizen or person has no right to refuse legal service of process. Service is considered accomplished in spite of the individual's refusal.

Number of Attempts to Serve

- There's no fixed number required by statute for how often the sheriff must try to serve a defendant in Tennessee
- Exceptions are evictions, which require three attempts: T.C.A. 29-18-115
- What matters legally is whether the sheriff has shown **reasonable diligence under the circumstances.**
- If service fails, the plaintiff (or their attorney) can seek court approval for alternative service methods.

Mail Service

- Even when mail service is permitted (e.g., summons/complaint under Rule 4.04), mail service cannot support default judgment unless return receipt shows personal acceptance by defendant, or receipt shows refusal to accept — which is deemed constructive acceptance under TRCP 4.04(11).
- For many writs, execution, replevin, writ of possession, injunctions, garnishment — mail service is not sufficient because actual, physical action (seizure, removal, notice) or presence requirement (personal appearance, production of property) is needed.

Service Outside the County (AG O.P. 80-550)

- Under TCA, sheriffs are vested with the primary duty of executing and returning process (TCA 8-8-201).
- But a sheriff's authority to serve process extends only within their county
- TRCP 4.01(1) - Upon the filing of the complaint, **the clerk of the court shall promptly issue the required summons and cause it,** with necessary copies of the complaint and summons, to be delivered for service to any person authorized to serve process.
- *It is the responsibility of the clerk to mail the necessary documents to the person having authority to serve process in another county (sheriff).*

Categories of civil process

Category	Process Examples	Action	Service Method
Initiating Process	Civil warrants, Complaints, Injunctions	Starts lawsuit	Personal or certified mail
Orders	Show Causes, Subpoena, Scire Facias	Requires appearance or response	Personal
Possessory (Real Property)	Detainer Warrant, Writ of Possession	Property / eviction	Personal + sheriff execution
Property Recovery	Replevin, Execution (Property)	Seize personal property	Sheriff physical execution
Judgment Enforcement	Garnishment, execution, Scire Facias	Enforce money judgments	Personal / statutory
Administrative Review	Administrative Appeals	Review agency action	Personal or certified mail

Civil Warrant / Civil Complaint

Court: General Sessions or Circuit Court (depends on case)

Purpose: Starts a civil lawsuit seeking damages or other relief

Process: Clerk issues summons and complaint after filing

Service: Personal service or certified mail (TRCP 4.04)

Fees: \$50 (in-person) / \$10 (mail) — T.C.A. § 8-21-901

Authority: TRCP Rule 4.04

Detainer Warrant (Forcible Entry & Detainer)

Court: General Sessions Court

Purpose: To regain possession of real property (eviction)

Process: Court issues detainer warrant; sheriff executes

Service: Usually personal service; may allow posting per statute

Fees: Sheriff service fees apply (per statute)

Authority: T.C.A. § 29-18-114

Execution (Fi. Fa.) / Writ of Execution

Court: Issued by the court that entered the judgment (Circuit, Chancery, or General Sessions)

Purpose: Enforces a money judgment by seizing debtor's property

Process: Creditor obtains writ; sheriff executes

Execution: Sheriff levies, seizes, or garnishes property

Fees: Sheriff statutory fees apply (T.C.A. § 8-21-901)

Authority: TRCP 69; T.C.A. § 26-1-201

Indemnity Bond § 26-3-104

- A sheriff or officer is not required to levy or sell property if the property's title is disputed.
- Before proceeding, the plaintiff must provide a bond and security.
- The bond must indemnify the officer against all damages and costs related to the levy or sale.
- Exception: No bond is required when the execution is issued to collect delinquent property taxes under § 67-5-2502(c)(1)(D)

Garnishment (Writ)

Court: Issued by judgment court

Purpose: Collects money judgment

Process: Creditor requests writ; sheriff enforces

Execution: Levy, seizure, or garnishment

Fees: Sheriff fees apply (T.C.A. § 8-21-901)

Authority: TRCP 69; T.C.A. § 26-1-201

Subpoena / Subpoena Duces Tecum

Court: Any court handling the case

Purpose: Compels a witness to appear or produce evidence

Process: Court issues subpoena; sent for service

Service: Personal service required

Fees: Sheriff fees apply (§ 8-21-901)

Authority: TRCP 45

Warrant to Recover Personal Property (Replevin)

Court: Circuit or General Sessions

Purpose: Recovers specific personal property

Process: Court issues writ; sheriff executes

Execution: Sheriff seizes and delivers property

Fees: Service + seizure/transport fees apply (§ 8-21-901)

Authority: T.C.A. §§ 29-30-101 – 108

Writ of Possession

Court: Issued by the court that granted possession

Purpose: Restores possession to the plaintiff

Process: Writ issued to the sheriff for execution

Execution: Sheriff removes occupant and delivers possession

Fees: Sheriff fees apply (may include removal/storage costs)

Authority: T.C.A. § 29-18-101

Best Practice for Service

- Use the Correct Service Method
 - Personal service when required, mail only when authorized
- Exercise Reasonable Diligence
 - Document attempts to service
- Follow Statutory Restrictions
 - No Sunday service (unless authorized), obey jurisdiction limits
- Maintain Professional Neutrality
 - No legal advice
- Complete Accurate Returns
 - Timely, legible, permanent entries (ink/non-erasable)

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Questions?

Contact: **Clint Shrum**



clint.shrum@tennessee.edu



(931) 273-4736