
General Information

About This Manual

The Civil Enforcement Procedure Manual is intended to act as a reference guide only. It is not intended that this manual replace any legislation or information that may be available. Civil Enforcement Agencies and Civil Enforcement Bailiffs must ensure their manual is updated regularly. For more information see Circular #1/99 in the "Circulars" section.

If you have questions regarding this manual, and/or wish to provide feedback on it, please contact:

Sheriff - Civil Enforcement
2nd Floor
108 Street Building
9942 - 108 Street
Edmonton, Alberta T5K 2J5

Email: Sheriff-Civil.Enforcement@gov.ab.ca
Web: www.albertacourts.ab.ca/cs/sheriff_civil/

Phone: (780) 422-2481
FAX: (780) 422-3011

Authority - Civil Enforcement Agency

Section 9 of the Civil Enforcement Act provides the authority for the Sheriff to enter into an agreement with a person under which that person is authorized to operate a Civil Enforcement Agency to perform the following functions:

- (a) carry out seizures of personal property
- (b) carry out evictions
- (c) sell property that has been seized
- (d) distribute the proceeds of sales to persons who are lawfully entitled to those proceeds
- (e) carry out any other functions or duties provided for or permitted under the Civil Enforcement Act or any other enactment or an order of the Court.

The functions set out in section 9(1)(a) to (e) of the Civil Enforcement Act may only be performed by an Agency pursuant to an agreement entered into with the Sheriff, unless specifically provided for by other legislation.

The agreement between the Sheriff and the Civil Enforcement Agency contains provisions governing:

- (a) the terms and conditions under which the Agency operates
- (b) suspension or cancellation of the agreement or any of the Agency's operations
- (c) rights and powers of the Sheriff respecting access to and the search of any locations and premises of the Agency and the removal of any property
- (d) any other matter respecting the authorization to operate the Agency.

Appointment of Civil Enforcement Bailiffs

Civil Enforcement Bailiffs are appointed pursuant to section 10 of the Civil Enforcement Act.

In order to act in the capacity of a Civil Enforcement Bailiff, the Bailiff must be employed by a Civil Enforcement Agency.

Authority - Civil Enforcement Bailiffs

When acting as a Civil Enforcement Bailiff, the Bailiff is a peace officer whose authority is derived from the Civil Enforcement Act.

Under section 2 of the Criminal Code, a "peace officer" includes:

a mayor, warden, reeve, sheriff, deputy sheriff, sheriff's officer and justice of the peace and a police officer, police constable, bailiff, constable, or other person employed for the preservation and maintenance of the public peace or for the service or execution of civil process.

As a peace officer, the Bailiff is responsible for ensuring that any violations or infringements on an individual's rights including your own, are reported to the police.

Civil enforcement Bailiffs are considered "Officers of the Court" and are obligated to act judicially when making decisions, such as debtor exemptions. As well, Bailiffs have a duty to disclose all facts in court when required. The Court of Queen's Bench Act includes civil enforcement bailiffs under "Duties of Sheriff" and says that they shall give assistance to and comply with the directions of the court and the judges in the exercise of the Court's jurisdiction.

Identification

A Bailiff must always identify themselves when effecting a seizure. The Bailiff should be prepared to show their badge and identification card and other related documents if requested.

Code of Conduct

A Code of Conduct for Civil Enforcement Agencies and Civil Enforcement Bailiffs have been established and regulated to provide guidelines for Civil Enforcement Agencies and Bailiffs. Contravention of these Codes may result in disciplinary action and/or termination of the Agency's agreement or the Bailiff's appointment.

An Agency shall use only Bailiffs who have been appointed by the Sheriff for the purposes of carrying out seizures, removing seized property, carrying out evictions, and enforcing orders of the Court. A Bailiff's authority to perform these functions is found in section 10(1) of the Civil Enforcement Act.

Agency staff and Bailiffs must refrain from giving any legal advice. To do so may result in a law suit.

Provision of Services

Pursuant to section 12(c) of the Civil Enforcement Act and subject to the regulations, the Agency may require reasonable security or indemnification and payment or satisfactory arrangements for payment of fees and expenses before carrying out a duty or function as instructed in writing.

Civil Enforcement Agencies must not accept instructions from a bailiff or a bailiff's company on behalf of a creditor and Bailiffs must not give instructions in their individual capacity or through their own company, to an Agency on behalf of a creditor (client). For more information see the Sheriff's June 17, 2002 Notice in Section 16 "Circulars."

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Bailiffs may carry on business and provide services which are somewhat related to civil enforcement bailiff functions, but do not require a civil enforcement bailiff. For more information see Circular #3/2007 in "Circulars" section.

Costs

Bailiffs must take care to avoid unnecessary costs. If there is reason to believe that excessive costs will be incurred, consult the instructing party before proceeding.

Execution of Bailiff Duties

The Civil Enforcement Bailiff's conduct should be above reproach. The Bailiff must discharge his duties impartially, with integrity, and showing no favouritism. The Criminal Code of Canada provides for protection as follows:

Offences Relating to Public or Peace Officer

129. *Every one who*

- (a) *resists or wilfully obstructs a public officer or peace officer in the execution of his duty or any person lawfully acting in aid of such an officer,*
- (b) *omits, without reasonable excuse, to assist a public officer or peace officer in the execution of his duty in arresting a person or in preserving the peace, after having reasonable notice that he is required to do so, or*
- (c) *resists or wilfully obstructs any person in the lawful execution of a process against lands or goods or in making a lawful distress or seizure,*

is guilty of

- (d) *an indictable offence and is liable to imprisonment for a term not exceeding two years, or*
- (e) *an offence punishable on summary conviction.*

The Criminal Code also provides for prosecution if duties are not discharged properly.

Misconduct of Officers Executing Process

128. *Every peace officer or coroner who, being entrusted with the execution of a process, wilfully*

- (a) *misconducts himself in the execution of the process, or*

(b) makes a false return to the process,

is guilty of an indictable offence and is liable to imprisonment for a term not exceeding two years.

Threats of Violence

If a Bailiff comes in to contact with a debtor who threatens violence, he should assess the situation; **do not force matters**. Withdraw quietly and report the facts fully to the Civil Enforcement Agency and/or the police. For more information with respect to police involvement see Circular #2/2007 in "Circulars" section.

Communication

Your daily responsibilities will include the use of a variety of communication skills, for example:

Verbal Communication - You will be expected to deal effectively with many individuals and companies, from a wide range of educational and ethnic backgrounds. Your listening skills, speaking ability, level of language, negotiation skills and telephone technique will be tested daily.

Non-Verbal Communication - An awareness of non-verbal signals (body language) is a valuable tool in the assessment of situations and diffusing potential hostilities. Awareness of the signals you are giving by your non-verbal actions is extremely important.

Be aware of cultural differences. For example, if you are dealing frequently with a specific ethnic group, an awareness of that group's culture would be an asset.

Written Communication - Written reports must be clear and concise. As they may be used in court, they should be factual without any speculations or opinions. Specific details should be included.

Professionalism - The image you present to creditors, debtors, and members of the public is critical to your effectiveness and credibility in the execution of your duties. Personal confidence, commitment to your goal, impartiality and calmness can be great assets in completing your duties. The ability to complete tasks within designated timelines is crucial to your success.

Confidentiality - The ability to preserve confidentiality is vital to carrying out bailiff work. Using discretion in gaining and disclosing information are important aspects of the work.

Networking

There is an obligation under the Civil Enforcement Act for the Agency to act in good faith and in a commercially reasonable manner. Due to the complexity of the business, Agencies should ensure they have access to legal advice, accounting expertise and appraisal experts in order to fulfil their legislated obligation and to provide optimum service to clientele. Developing cooperative relationships with contacts is also important to your success. Your ability to give concise, explicit instructions and directions to these resource contacts can ensure that your duties are completed quickly and efficiently. Potential contacts are:

1. Law Enforcement Agencies
2. Towing Companies
3. Moving Companies
4. Heavy Equipment or Specialty Moving Companies
5. Locksmiths
6. Storage Firms
7. Auction/sale Companies
8. Veterinarians
9. Livestock and Brand Inspectors
10. Health Officials, including Occupational Health and Safety Officials
11. Alberta Registry Firms
12. Other Bailiffs/Civil Enforcement Agencies
13. Municipality Offices

Occupational Health and Safety

Agencies and Bailiffs must comply with the Occupational Health and Safety Act. Hazardous materials may be encountered in the conduct of seizures.

Biohazards are biological substances present in, or arising from the work environment. A person may become infected through direct contact with infectious persons, animals, animal or human blood, blood by-products, body fluid secretions and excretions. As a result, all job-related injuries such as scratches, bites, puncture wounds and exposure to a known or suspected source of infected blood, blood products or body fluids must be recorded.

Civil Enforcement Bailiffs could be exposed to these biohazards in various situations. Their ability to recognize these hazards and their judgment in the handling of the situation can be major safeguards against undue exposure to the risk. This exposure or contact can be prevented with the use of protective equipment such as:

- gloves
- coveralls
- protective eyewear (goggles or face shields)
- mouthpieces, pocket masks or other ventilation device
- rubber boots.

When seizing and/or removing any biohazardous materials and wastes, the shipping and transporting must be performed by trained and certified carriers in accordance with the Transportation of Dangerous Goods Control Act.

WHMIS

(Workplace Hazardous Materials Information System)

WHMIS is a nationwide communication system providing information on hazardous materials in the workplace.









You should be aware of hazardous materials such as photocopy toners, ammonia for diazo machines, duplicating fluids, some correction fluids and cleaning agents. Hazardous materials should be identified by any one of the symbols shown on the example that follows.

It is recommended that you become familiar with these symbols and when seizing, removing, disposing or handling these materials in any way, that you follow the warnings and instructions and use protective clothing.

The following agencies may be able to offer assistance and guidance to you:

Poison Centre 1-800-332-1414
Dangerous Goods Control 1-800-272-9600

WHMIS Symbols

A	COMPRESSED GAS	
B	FLAMMABLE AND COMBUSTIBLE MATERIAL	
C	OXIDIZING MATERIAL	
D	<p style="text-align: center;">POISONOUS AND INFECTIOUS MATERIAL</p> <ol style="list-style-type: none"> 1. MATERIALS CAUSING IMMEDIATE AND SERIOUS TOXIC EFFECTS 2. MATERIALS CAUSING OTHER TOXIC EFFECTS 3. BIOHAZARDOUS INFECTIOUS MATERIAL 	  
E	CORROSIVE MATERIAL	
F	DANGEROUSLY REACTIVE MATERIAL	

Civil Enforcement Agency Administration

Administrative systems

The Agency must maintain an accurate and complete record, in a form satisfactory to the Sheriff, of the following:

- (a) instructions received from creditors or other persons;
- (b) steps taken by the Agency to carry out the instructions referred to in clause (a) and the results of taking those steps;
- (c) notices or statements sent or received;
- (d) distributions made under the Act; and
- (e) any other matter or item the Sheriff advises.

Note: For information on public access to an agency's file, see the written directive dated August 26, 2009 in the Circulars section.

Training

The Agency must ensure that its employees are sufficiently trained to carry out the duties required of them in their capacity as Civil Enforcement Agency staff and/or Civil Enforcement Bailiffs.

This will include, but is not limited to, the compulsory training programs for Civil Enforcement Agencies and Civil Enforcement Bailiffs, developed by Alberta Justice. Successful completion of these Training Programs is a prerequisite for certification of Agencies and Bailiffs.

Civil Enforcement Agency staff and Civil Enforcement Bailiffs may be required to attend ongoing education programs which may be developed from time to time. Agencies may also be required to provide their staff with such training as the Sheriff may deem reasonable and necessary from time to time.

All training undertaken by Civil Enforcement Agencies and Civil Enforcement Bailiffs will be at their own expense.

Standards

The Agency will perform the functions in accordance with the following standards, which standards may, in the sole discretion of the Sheriff, be amended from time to time, and in such event, the Agency will perform the functions in accordance with the standards as amended. Written notice will be given by the Sheriff to the Agency of any changes to these standards.

The Agency will:

- (a) check enforcement documents as to accuracy and to determine omissions upon receipt from the instructing creditor;
- (b) comply with all applicable Sheriff's policy and procedure manuals;
- (c) arrange with only licensed and fully insured towing or moving companies to handle and transport seized assets to a suitable storage location;
- (d) store seized assets and personal property in a secure and safe location where the value of personal property seized will be protected; the Agency will ensure that sufficient insurance coverage is maintained against loss of, and damage to, such stored property; and
- (e) utilize only a licenced and bonded locksmith where locksmith services are required.

Trust Funds and Accounts

1. The Agency will deposit any monies received towards the initiation or settlement of a civil enforcement proceeding into the appropriate interest bearing account.
2. The Agency will:
 - (a) disburse monies from settlement or sale as soon as reasonably practical according to:
 - (i) law and
 - (ii) priority claims established by law.
3. The Agency will only draw money from a trust account for the purpose of:
 - (a) paying a creditor money received on behalf of, and deposited to the credit of, that creditor;
 - (b) paying the Agency's charges and disbursements relating to enforcement work performed for creditors where properly incurred;
 - (c) paying monies to the Sheriff;

- (d) correcting an error caused by money deposited in the trust account by mistake; and
- (e) refunding to the debtor any monies remaining after all creditors have received payment in full of their debt and taxable costs.

Complaint Resolution System

1. The Agency will investigate all complaints concerning the Agency, its employees, subcontractors, and agents received from the Sheriff, a creditor, a debtor or any other person, and forward to the Sheriff a copy of all such complaints and response letters.
2. The Agency will respond to all complaints within 7 days of receiving written notice of the complaint.
3. The Agency will make every reasonable attempt to resolve all complaints to the satisfaction of the complainant within 30 days of receiving verbal or written notice of the complaint. A copy of all correspondence will be forwarded to the Sheriff.
4. All responses and follow-up letters regarding written complaints must be in writing.
5. The Agency will revise response and follow-up letters to complainants, as may be requested by the Sheriff.
6. The Agency will assist the Sheriff, as requested, in the investigation of any complaint. The Agency and its employees will attend interviews at mutually agreed upon times and locations, as requested by the Sheriff.

Conduct

1. The Agency and its employees will at all times conduct themselves in a manner which reflects the integrity of the court and the justice system and which in no way discredits the administration of justice in the Province of Alberta.
2. The Agency will ensure that it and its employees comply with the Civil Enforcement Act and the Civil Enforcement Regulation.
3. No person connected with the Agency will act, or represent to another person that he is acting or is available to act as a Civil Enforcement Bailiff unless he is appointed as such under the Civil Enforcement Act.
4. Once an enforcement document is in the hands of the Agency, it takes

precedence, and the Agency's responsibility is to the Court. The Agency will therefore not act or continue to act for another client who might have an interest in the personal property against which enforcement action is to be taken, without the consent of both clients.

Peace Officer

1. The Agency shall ensure that any Bailiff duly appointed as a Civil Enforcement Bailiff under the Civil Enforcement Act employed or otherwise connected with the Agency exercises his limited rights as a peace officer only in regard to the Agency's direct involvement with the functions required or authorized by the Civil Enforcement Service Agreement and only in the lawful exercise of such functions.
2. The Agency shall ensure that any Civil Enforcement Bailiff in its employ will only, present himself as a Civil Enforcement Bailiff when performing the functions under the Civil Enforcement Service Agreement.
3. The Agency shall ensure that no Bailiff in its employ will, while performing his or her duties, be in possession of a weapon of any kind, except with the express written consent of the Sheriff, or where weapons which have been seized are being transported to a safe storage location. For more information see letter dated August 26, 2009 with Directive No. 1/2009 attached in the "Circulars" section.

Required Equipment

The Agency must at all times have located at its premises the following equipment, in a fully functioning state:

1. Telephone
2. A plain paper facsimile machine (telecopier) with a minimum modem speed of 9600 bps.
3. Photocopy machine.
4. At least one work station capable of interfacing with the Personal Property Registry through the Alberta On-Line facility.
5. In each service area served, a lockable "money" safe, large enough to hold all monies, seized securities, and confidential documents related to Agency activities. If it is lightweight, the safe must be floor mounted or wall mounted, in order to decrease its movability.
6. Such other equipment as, from time to time, the Sheriff shall advise the

Agency is required, such advice to be given in writing.

Civil Enforcement Forms

Examples of the regulated forms are included in the Civil Enforcement Regulation which you will find in section 3 of this manual. These forms, along with the Rules of Court Forms, Personal Property Security Forms, and Civil Enforcement Procedural Forms are available from Alberta Queen's Printer. Please refer to the order form in this section.

Other Legislation

Throughout this manual there will be reference to Acts and Regulations other than the Civil Enforcement Act and Civil Enforcement Regulation. Alberta Queen's Printer is the official source of Alberta government legislation. The order form provided in this section can be used to obtain copies of the Provincial Statutes identified in relation to Civil Enforcement.