

2nd Floor, 108th Street Building
9942 - 108 Street
Edmonton, Alberta, Canada T5K 2J5
Telephone 780-422-2481 Fax 780-422-3011
sheriff-civil.enforcement@gov.ab.ca

January 22, 2010

To: Civil Enforcement Procedure Manual Subscribers

Enclosed is an update to the Civil Enforcement Procedure Manual ("Manual") along with an instruction sheet on what pages to delete and substitute.

On some pages you will notice underlined text. This is to incorporate a new feature when using the online version of the Manual. Clicking on the underlined portion links the user to another page in the Manual, or to another reference webpage or website.

Please contact me at (780) 427-4270 (or dial 310-0000 for toll-free access in Alberta) if you have any questions or need more information.

Thank you,



Dwayne C. Weatherall
Sheriff - Civil Enforcement

Enclosure

DCW:daq

Civil Enforcement Procedure Manual

Update Instruction Sheet

January 15, 2010

*Asterisk in the left margin indicates where changed or new text appears.

Section	Delete	Substitute	Change
Table of Contents	Entire section	Entire section	Table of Contents updated
General Information	1.1-1.13	1.1 – 1.13	<p>Text changed in About this Manual: 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.</p> <p>If you have questions regarding this manual, and/or wish to provide feedback on it, please contact:</p> <p>Sheriff - Civil Enforcement 2nd Floor 108 Street Building 9942 - 108 Street Edmonton, Alberta T5K 2J5</p> <p>Text added in Provision of Services: 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 the Sheriff's Circular #3/2007 in Circulars section.</p> <p>Text changed in 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 section 16 "Circulars".</p> <p>Text added in Civil Enforcement Agency Administration: Note: For information on public access to an agency's file, see the written directive dated August 26, 2009 in the Circulars section.</p>

Section	Delete	Substitute	Change
			Text added in Peace Officer 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, For more information see letter dated August 26, 2009 with Directive #1/2009 attached in the Circulars section.
Searches	4.1-4.4	4.1-4.2	Deleted section: Related Writ Search and obsolete examples
Writ Seizure	6.5-6.6	6.5-6.6	Text changed in 4. Orderly Payment of Debts in reference to Money Mentors
Contractual - PPSA Seizure	7.3-7.4	7.3-7.4	New under Warrant The debtor may voluntarily give up possession of property to the creditor or its agent, in which case, seizure is not required and it is not necessary to involve a civil enforcement agency. For more information see Circular #3/97 in section 16 "Circulars".
Distribution	11.3-11.4	11.3-11.4	Text changed in 4. Orderly Payment of Debts in reference to Money Mentors
Release of Seizure	12.11-12.12	12.11-12.12	Changes to Notice of Intention to Release Seizure Pursuant to Section 7 CEA NB: 30 days for release of property
Extraordinary Situations	13.25-13.28	13.25-13.28	New Procedures set out in Seizure of Securities
APPRES	Entire section	15.1	APPRES replaced PERPIS effective December 3, 2007
Circulars	Entire section	16.1-16.25	Changes to this section: Circular 3/97 added Circular 3/98 removed Circular 1/99 added Circular 3/99 added Circular 8/2000 added Circular 3/2007 added (replaces 3/98) Circular 1/2009 added
Index	Entire section	18.1-18.9	Removed from C Civil Enforcement Bailiffs Requesting Police Assistance Added to P Personal Property Registry Police Involvement in Civil Enforcement Removed from R Related Writ Search

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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."

*

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>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.

Searches

Searches must be conducted at various stages of enforcement action including:

- (a) prior to seizure
- (b) prior to sale, and
- (c) prior to distribution

This manual addresses the standard search types. Consult your legal counsel for further direction regarding necessary searches.

Distribution Seizure ("DS") Search

"DS" distribution seizure search allows for multiple names and aliases to be searched on one specific file only. Do not use for searching names on multiple files as the search results will not be accurate. This search will be conducted prior to effecting seizures, sales and distributions. It is an "historical" search which, by using an "as at date" on the search screen, allows the Agency to determine what registrations were current at the time the receipt was eligible for distribution. The date entered in the "as at date" field on the search screen can date as far back as 21 days from the date you are conducting the search.

Types of registrations included in this search are: Writs, Maintenance Orders, Court Orders, Bankruptcy Registrations, Stays, OPD Registrations, Security Agreements, Garage Keeper's Liens, WCB Charges, Land Charges, Crown Charges, Matrimonial Property Orders, and Railway Rolling Stock Registrations. Complete information relating to seizure, seizure disposition, and sales distribution information will print on exact matches only (including debtor identifier, if any). The advantages of conducting a "DS" are as follows:

- the capability of including up to 21 days prior expired or discharged registrations
- multiple variations of the debtor name can be searched within one "DS" search
- search results are in registration date order, easier to consider priorities
- search is conducted by individual or business debtor name
- only exact writs are included in results

Bank of Canada

Searches may be conducted at the Bank of Canada to determine securities that may be registered pursuant to The Bank Act. A search may be obtained by writing to the Bank at:

Section 427 Department
Box 98
Calgary, Alberta T2P 2H4

Telephone: 1-800-388-8995

Superintendent of Bankruptcy

Searches may be made against the public records of the Superintendent of Bankruptcy to confirm the insolvency status of individuals or businesses. For more information on how to request these searches you should contact:

Industry Canada
Bankruptcy Branch
Journal Tower South
365 Laurier Avenue West
8th Floor
Ottawa, Ontario
K1A 0C8

ATTENTION: Search Services

2. Bankruptcy

If a debtor is in bankruptcy, determine whether a stay of proceedings is in effect.

If the searches show that the debtor is in bankruptcy, contact the Trustee in Bankruptcy to determine if seizure can be effected for the instructing party. Advise the instructing party if unable to effect seizure OR proceed to seizure if the Trustee in Bankruptcy advises, in writing, to do so.

The only way to determine conclusively whether a bankruptcy exists is to conduct a search of the records of the Superintendent of Bankruptcy. For information on these searches refer to section 4 - Searches.

3. Court Ordered Stays

This is an order granted by the Court to stay one or more matters until the time specified in the order.

If the searches show that a court ordered stay affecting the instructing party's action has been registered, the seizure cannot be effected. Advise the instructing party and await further instructions.

If you become aware that a stay has been granted by the Court affecting the instructing party's action, even if it is not registered at the Personal Property Registry, you should not proceed with seizure.

*** 4. Orderly Payment of Debts**

Orderly Payment of Debts, commonly referred to as OPD is a program administered by Money Mentors, formerly Credit Counselling Services of Alberta, whereby a person in debt can obtain an order consolidating debts and specifying new terms of payment to the creditors participating in the order.

If, in conducting a seizure, a Bailiff encounters a debtor who indicates they have entered into a Consolidation Order, the Agency may wish to confirm the status with Money Mentors at 1-888-294-0076, or obtain instructions from the instructing party as to whether to proceed with seizure. For more information on Money Mentors, visit their website at <http://www.moneymentors.ca>.

Completion of Warrant

Once you have determined who the creditors and related writ holders are, complete the amount owing portion of the warrant.

Required Documents for Bailiff

In order to effect seizure, the Bailiff must be provided with a copy of the warrant, a copy of the letter of instructions and the following documents:

- Notice of Seizure of Personal Property, sufficient copies to allow service of one on each debtor, one for each bailee and return of the original to the Agency

- Notice of Objection to Seizure of Personal Property, sufficient copies to allow service of one on each debtor and return of the original to the Agency

- Information for Debtor form, sufficient copies to allow for service of one on each debtor

- Bailee's Undertaking, sufficient copies to provide a copy to each bailee and return original to the Agency

- Bailiff's Report

- Other documents as required.

- (10) Municipality and date of warrant
- (11) Signature of instructing creditor or authorized agent
- (12) Name, address, telephone number and fax number of instructing creditor or authorized agent.

A repossession of property under a chattel lease is not governed by Part 5 of the Personal Property Security Act so the above form of warrant is not applicable. Instead use form 4.1 as shown at the back of this section.

- * The debtor may voluntarily give up possession of property to the creditor or its agent, in which case, seizure is not required and it is not necessary to involve a civil enforcement agency. For more information see Circular #3/97 in section 16 "Circulars".

Letter of Instructions

In addition to the warrant, a letter of instructions should also be received. The letter of instructions could provide additional information such as:

- (1) Any urgency associated with the file
 - (2) Any unusual circumstances which might be anticipated
 - (3) Whether removal of the seized personal property is required
- AND / OR
- (4) Whether surrender is requested and if so the name of a designated agent to whom the property is to be surrendered.
 - (5) If the debtor is believed to be a farmer or in a farming operation, confirmation that the provisions of section 22 of the Farm Debt Mediation Act have been followed.
 - (6) Form of indemnification as requested by the Agency.

If removal is instructed, you may wish to consider and discuss with the instructing party the following issues with regard to the removal of seized personal property:

- (1) The location of the property to be seized, as removal may be costly in a remote area
- (2) The condition or value of the property to be seized, as the cost of seizure may outweigh the money which may be realized from sale of the property
- (3) The type of property required to be removed including where and how to conduct removal of unique or special items
- (4) Any stays that may be in existence. If there is a stay in effect, you may be liable for an improper seizure and for removal costs. A stay is in existence whether it has been registered at Personal Property Registry. Therefore, check out any information that may come to light at the time of seizure.
- (5) The removal may put the debtor out of business or cause severe hardship and if there is a responsible person available, you should consider leaving the property with that person (often the debtor) under a Bailee's Undertaking.

* **4. Orderly Payment of Debts**

If an Orderly Payment of Debt Consolidation Order is registered, contact Money Mentors, formerly Credit Counselling Services of Alberta, to determine if distribution of funds can proceed. Advise the instructing party if you are unable to dispose of the funds OR proceed to distribution if Money Mentors advises you to do so.

Money Mentors can be contacted at 1-888-294-0076 or visit their website at <http://www.moneymentors.ca>.

Prepare Proposed Distribution

If there are no registrations prohibiting distribution, prepare a Notice of Proposed Distribution covering the money paid in and any interest earned.

Distribution Where Property Is Partially Exempt

Sections 98 and 99 of the Civil Enforcement Act provide the authority for distribution.

The priorities identified are based on all parties having taken all necessary steps to protect their claim. The area of priorities is fraught with uncertainty and the order of priority specified below is only suggested for your consideration in preparing a proposed distribution. Distributions are subject to interpretation by the Courts: therefore, it is very important to ensure that all interested parties are served. In all circumstances, you should consider consulting with legal counsel.

Priority Interest

Attempting to determine priority amongst Priority Claimants may lead to "circular priorities". For example, section 129 of the Workers' Compensation Act gives the Workers' Compensation Board priority over all interests, including PMSI's. However, the WCB does yield priority to Employment Standards claims to the extent of \$7,500 and to Employment Pension claims to the extent of \$5,000. On the other hand, under section 113 of the Employment Standards Code, employment standards claims are subordinate to PMSI's. The Sheriff's Office, in the past, used the following approach: the WCB was given priority, which was deemed to be given up to the employment standards claim (to a maximum of \$7,500, in the case of employment pension \$5,000) then the PMSI holder was the next in priority.

If you have such a "circular priority", consult your legal counsel.

Letter to the Debtor Releasing Seizure.

Letter to the Debtor Releasing Seizure

Re:

Pursuant to the Civil Enforcement Act, you are hereby notified that the seizure effected on behalf of _____ (name of creditor instructing release of seizure) on _____, 19 _____, of the property identified as:

(list of property to be released)

is hereby released insofar as it pertains to this seizure only.

include only if applicable

The bailee, _____ (name of bailee), is by copy of this letter, hereby relieved of his Bailee's Undertaking entered into on _____, 19_____.

Yours truly,

Bankruptcy And Insolvency Act

The general provisions of the Bankruptcy and Insolvency Act state that upon an Agency receiving a copy of an assignment or a receiving order certified by the Trustee as a true copy, the Agency shall deliver all the bankrupt's property in its hands and any monies realized from the sale of property, less its fees and costs, to the Trustee.

Upon receiving a certified copy of an assignment from a Trustee, check your records to determine if you have property belonging to the bankrupt/debtor still under seizure or if you have monies in trust realized from a sale of property seized from the bankrupt/debtor.

If you have property under seizure, release it to the Trustee following the procedures in the Release of Seizure section.

If you have monies in trust, deduct any fees and expenses of the instructing party and of the Agency and forward a cheque for the balance to the Trustee.

Federal Court Act

The Federal Court Act states that the Governor in Council may appoint the Sheriff of the Federal Court for any geographical area; failing such appointment, the Sheriff or Deputy Sheriff of the county or the judicial division within that geographical area are ex officio Sheriff and Deputy Sheriff of the Federal Court.

If a situation arises where it is necessary for the Sheriff to act in this capacity (e.g. to arrest a ship), an Agency may be instructed to act on the Sheriff's behalf.

* **Seizure of Securities**

Seizure and sale of securities is a complicated matter and this Manual does not purport to contain all applicable information. Prior to proceeding, it would be advisable to carefully review the applicable statutory and regulatory provisions, and consult legal counsel.

Section 57 of the Civil Enforcement Act (the "CEA") states that seizure of securities must be made in accordance with sections 47 to 51 of the Securities Transfer Act (the "STA"). The result of reading these two statutes together is that the method of seizure is specified for each of three types of securities – certificated securities, uncertificated securities, and security entitlements.

Certificated Securities

A certificated security is defined in section 1(e) of the STA as "a security that is represented by a certificate".

The seizure of certificated securities must be conducted in accordance with section 48(1) of the STA, and requires actual seizure by a civil enforcement agency (just like any other item of personal property). Under section 48(2), if the certificate was surrendered to the issuer, it may be seized by notice to the issuer at the issuer's chief executive office.

Section 57(2) of the CEA states that, notwithstanding section 48 of the STA, an agency can seize the interest of an enforcement debtor and certificated securities issued by an "Alberta private company" (a closely-held company) by serving notice of seizure on the issuer at the issuer's chief executive office. In other words, when shares are issued by a closely-held corporation and are certificated, physical seizure is not the only option. Section 58 of the CEA specifies the duties of the Alberta private company when it is served under section 57(2).

Uncertificated Securities

An uncertificated security is defined in section 1(kk) of the STA as "a security that is not represented by a certificate." Such a security will be registered in the name of the investor/enforcement debtor.

Seizure of uncertificated securities must be done in accordance with section 49 of the STA. This requires seizure by a civil enforcement agency serving notice on the issuer at the issuer's chief executive office. Section 58 of the CEA again applies if the issuer is an Alberta company.

Security Entitlement

A security entitlement is defined in section 1(hh) of the STA as *“the rights and property interest of an entitlement holder with respect to a financial asset that are specified in Part 6 of the [STA]”*. Basically, this constitutes a security which is owned by an investor/enforcement debtor but is not specifically registered in his name.

Seizure of a security entitlement is done in accordance with section 50 of the STA, and requires that the civil enforcement agency serve notice on the securities intermediary (as defined in section 1(ee)(ii) of the STA, but usually a broker) with whom the enforcement debtor’s account is maintained.

Seizures pursuant to sections 48 to 50 of the CEA are subject to section 51 of the STA, which deals with situations where a secured party is involved.

Section 57.1 of the CEA specifies the powers of a civil enforcement agency upon seizure of both securities and security entitlements. Section 59, dealing with security entitlements only, sets out under what conditions the agency will be entitled to information, documents and dividends the enforcement debtor would have been entitled to, as well as when the agency can give directions to the intermediary regarding the seized security. This condition is that the security intermediary’s jurisdiction within the meaning of the STA is Alberta.

Section 61 of the CEA specifies, with respect to securities only, that an agency may liquidate securities by any means that the nature of the security permits, and also that restrictions on the transfer attached to the shares of an Alberta private company do not apply to transfers by an agency.

The law is not clear as to how to deal with the situation where a debtor’s securities and security entitlements are located outside Alberta. At this point, it would appear that, because uncertificated securities and security entitlements are intangible, their location is notional, and it may be that the location of uncertificated securities would be the location of the issuer’s chief executive office. Security entitlements would be located where the security’s intermediary is located (i.e. where the broker keeps his records indicating the enforcement debtor’s ownership). However, at this point, as there is no case law dealing with the new legislation, this is unknown. Therefore, until the law is more settled, it is strongly recommended that, whenever an agency is considering seizing uncertificated securities or security entitlements, it consult legal counsel before taking action.

00-00000

Civil Enforcement Agency File Number

Notice to Grain Elevator Agents

TO All Grain Elevators
34 Wheat Drive, Spruce Grove, Alberta
 Name and Address of Grain Elevator

TAKE NOTICE that I have seized the grain of
Joe Debtor
 Name of Debtor

N.E. 1/2 of 7-3-54 -- West of the 5th Meridian
 Land Description Where Grain Was Seized

Should the Debtor or his agent deliver the grain to you for sale, you are required to pay the proceeds of the sale to the Civil Enforcement Agency noted below:

P. Bailiff P. Bailiff
 Authorized Signature Print Name

We Seize Ltd.
 Name of Civil Enforcement Agency

406 Replevin Road Edmonton
 Address of Civil Enforcement Agency City

Alberta T5J 2N5 422-2696 422-7777
 Province Postal Code Telephone Number Fax Number

Dated at Edmonton Alberta, on January 15, 1996

Oct. 01/95

Civil Enforcement Remote Information System

Contents of Tab 15 PERPIS removed as the system was replaced by APPRES (Alberta Personal Property Registry Electronic System), on December 3, 2007.

**For more information,
visit www.servicealberta.ca**

May 16, 1997

CIRCULAR #1/97

TO: All Civil Enforcement Agencies

SUBJECT: When and Where a Motor Vehicle Can Be Seized

It has been brought to our attention that some civil enforcement agencies and Bailiffs are carrying out, or attempting to carry out, seizures in residential areas between the hours of 10:00 p.m. and the following 6:00 a.m. Please note that the term "residence" in s. 8(1) of Civil Enforcement Regulation is used to distinguish residential from business or commercial premises. Therefore, whether or not the property in question is actually on the residential premises, if it is at the residential premises, for example on the street in front of the residential premises, it may not be seized between the hours specified, unless otherwise ordered by a Court.

All agencies receiving the circular must provide a copy of the circular to, or otherwise notify, each civil enforcement bailiff currently performing bailiff's duties for the agency.

If you have any questions or comments, please feel free to contact this office or our Calgary office.

Yours truly,

Dwayne C. Weatherall
Sheriff of Alberta
(Civil Enforcement)

DCW:daq

July 14, 1997

*

CIRCULAR #3/97

TO: All Civil Enforcement Agencies

SUBJECT: "Simple Seizures"

The purpose of this notice is to advise you of the position of this office regarding socalled "simple seizures".

"Simple Seizures" involve the debtor(\$ voluntarily giving up possession of property (normally vehicles) to creditors or their agents, after which a seizure is conducted, purportedly in accordance with the Civil Enforcement Act. Please note that not only is it unnecessary to seize a debtor's vehicle (or other property, if applicable) after it has been voluntarily surrendered to the creditor or its agent, but such an act does not constitute a seizure in law, since a creditor cannot legally seize an item that is already in his possession.

Please ensure that each Civil Enforcement Bailiff employed by your agency is provided with a copy of this circular.

If you have any questions or comments, please feel free to contact this office in either Edmonton or. Calgary.

Yours truly,

Dwayne C. Weatherall
Sheriff of Alberta

October 9, 1997

CIRCULAR #5/97

TO: All Civil Enforcement Agencies

SUBJECT: Samson Cree Nation - Entry on Reserve

It has come to my attention that the Samson Cree Nation has a by-law governing entry on the reserve. This by-law states as follows:

"All persons having any business to do on [the] reserve must receive the appropriate approvals from [the] Samson Cree Nation. This includes a letter, Band Council motion and a Band Council Resolution as well as further compliance with S. 89 of the Indian Act."

For those agencies and bailiffs having business on the reserve, please govern yourselves accordingly. If you have any questions I suggest you deal directly with the Samson Cree Nation's Administration office.

Please ensure that each bailiff working for your agency is made aware of the above information.

Yours truly,

Dwayne C. Weatherall
Sheriff of Alberta

DCW:daq

May 18, 1999

*

CIRCULAR #1/99

TO: All Civil Enforcement Agencies

SUBJECT: Update to Civil Enforcement Procedure Manual

Recently Queen's Printer Bookstore distributed a package of update material for the Civil Enforcement Procedure Manual to manual holders that were registered on their standing offer service list. All other manual holders should have received the enclosed order form to request the update material.

You may have already received this material from Queen's Printer Bookstore, if so please ignore this circular. If you did not receive the update material or information about obtaining it, please complete the enclosed order form and send it directly to Queen's Printer Bookstore.

Civil enforcement agency personnel and civil enforcement bailiffs must have access to the Civil Enforcement Procedure Manual and updates as issued. Please ensure that all agency personnel and bailiffs employed or contracted by your agency have received this update material.

If you have any questions or concerns, please contact Michelle Turlock at 427-4834.

Yours truly,

Dwayne C. Weatherall
Sheriff of Alberta

Enclosure

:daq

May 18, 1999

*

CIRCULAR #3/99

TO: All Civil Enforcement Agencies

SUBJECT: Discharging Seizure Registrations on the
Personal Property Registry System ("PPR")

This is to clarify the process for discharging seizure registrations on PPR.

In situations where the seized property has been dealt with in accordance with the provisions of the Personal Property Security Act, or disposed of in a manner other than by sale under the Civil Enforcement Act, the seizure registration at PPR may be discharged. The discharge can only be carried out by the civil enforcement agency that registered the seizure, subject to complying with any legislation governing notice to all interested parties, and providing that the discharge is not likely to adversely affect the right of any other creditors or interested parties.

Please note that under section 15 of the Civil Enforcement Regulation, where an agency has carried out a distribution, the agency must, within one year from the day of completing the distribution, discharge all the reports registered at PPR under section 13.

If you have any comments or need more information, please do not hesitate to contact Michelle Turlock at 427-4834.

Yours truly,

Dwayne C. Weatherall
Sheriff of Alberta

:daq

June 08, 2000

CIRCULAR #7/2000

TO: All Civil Enforcement Agencies

**SUBJECT: Livestock Identification Services (LIS)
Assistance to Civil Enforcement Agencies and Bailiffs**

For your information, attached is a copy of LIS's policy regarding the circumstances under which LIS will provide assistance to civil enforcement agencies in the seizure and sale of livestock, and the procedure to be followed in such cases.

Please ensure that all of your staff and bailiffs are made aware of this policy.

Yours truly,

Dwayne C. Weatherall
Sheriff of Alberta

Attachment

DCW:daq

LIVESTOCK IDENTIFICATION SERVICES POLICY RE ASSISTANCE TO CIVIL ENFORCEMENT AGENCIES AND BAILIFFS

Objective:

The purpose of this policy is to set out the circumstances under which LIS will provide assistance to civil enforcement agencies in the seizure and sale of livestock, and the procedure to be followed in such cases.

I. SEIZURE OF LIVESTOCK

A. Role of LIS

LIS will provide assistance to civil enforcement agencies and bailiffs who are carrying out a seizure of livestock, on a fee-for-service basis. This assistance will consist of: providing an LIS employee to accompany the bailiff who is performing the seizure; identifying the brands on any livestock located at the premises where the seizure is occurring; and advising the bailiff of the name of the person or persons who are the registered owners of the brands.

LIS and its employees will not assist in capturing or removing the livestock.

B. Protocol

1. All requests for assistance with a seizure of livestock must be made in writing by a civil enforcement agency to the LIS General Manager. If the request is made to a brand inspector or other employee of LIS, the employee will direct the person making the request to contact the General Manager.
2. The written request must be accompanied by documents evidencing the seizing creditor=s entitlement to carry out a seizure, as follows:
 - in the case of an enforcement creditor, a copy of the writ of enforcement, together with evidence that the writ has been registered at the Personal Property Registry;

- 2 -

- in the case of a secured creditor who has obtained judgement against the debtor, a copy of the writ of enforcement or notice of seizure pursuant to s. 51 of the Civil Enforcement Act, together with evidence that the writ or the notice has been registered at the Personal Property Registry; or
 - in the case of a secured creditor who has not obtained a judgement against the debtor, a copy of the warrant delivered to the civil enforcement agency, together with any other documentation required by the civil enforcement agency (but not including any indemnity or bond required by the civil enforcement agency from the creditor).
3. The General Manager will accept the request only if LIS has been provided with a form of indemnity satisfactory to LIS executed by the civil enforcement agency requesting the seizure. The General Manager will also advise the civil enforcement agency of the fee to be charged by LIS for its assistance.
 4. If the General Manager accepts the request, he will assign a senior brand inspector or supervisor to accompany the civil enforcement bailiff and perform the necessary brand inspections.

C. Confidentiality of Requests

1. Subject to (3) below, all requests for assistance with seizures will be treated as confidential.
2. Employees of LIS will not discuss a request with anyone other than the General Manager (including other employees of LIS) unless instructed to do so by the General Manager.
3. When the General Manager receives a request for assistance from more than one civil enforcement agency in respect of seizure of the same livestock, he will advise each agency that another request has been made. He will not disclose any further information about the respective requests, such as the name of the other civil enforcement agency or civil enforcement bailiff, the name of the instructing creditor, or the time or date of the proposed seizure. LIS will render assistance to civil enforcement agencies in the sequence that the requests were received.

- 3 -

II. SALE OF LIVESTOCK FOLLOWING SEIZURE

A. Legislative Context

Pursuant to the Livestock Identification and Brand Inspection Act, all livestock brought to an auction market for sale must be accompanied by a livestock manifest and inspected by a brand inspector. If the name shown on the livestock manifest as contributor of the livestock is different from the name of the registered owner of the last brand on the livestock, the brand inspector has two options: to place a hold on the sale itself, or to allow the sale to proceed but place a hold on the sale proceeds.

There is nothing in the Livestock Identification and Brand Inspection Act which permits a brand inspector to accept a livestock manifest which shows a civil enforcement agency or bailiff, or a seizing creditor, as contributor of the livestock without placing a hold on the sale proceeds. The following protocols have been developed in order to permit seizing creditors to take advantage of the provisions of the Civil Enforcement Act and the Personal Property Security Act so as to complete the livestock manifest in the name of the civil enforcement agency or seizing creditor without risk of a hold on the sale proceeds.

B. Enforcement Creditors

LIS will not require any documentation in addition to that required prior to assistance with the seizure, i.e., a copy of the writ of enforcement and evidence that the writ of enforcement has been registered at the Personal Property Registry.

- 4 -

C. Secured Creditors - With Judgement

Where a secured creditor has filed a writ of enforcement pursuant to a judgement against the debtor, paragraph B above applies. If the secured creditor has elected instead to file a notice of seizure under s. 51 of the Civil Enforcement Act, in addition to a copy of the notice of seizure and evidence that the notice has been registered at the Personal Property Registry (which may already have been provided to LIS prior to the seizure), LIS will require an affidavit verifying service of the notice of seizure on the enforcement debtor.

D. Secured Creditor - Without Judgement

In addition to a copy of the warrant (which may already have been provided to LIS prior to the seizure), LIS will require a copy of the Notice of Intention pursuant to s. 60(4) of the Personal Property Security Act, together with an affidavit verifying service of the Notice on all persons entitled to receive the Notice.

E. Advance Notice of Intended Sale

In all cases, the civil enforcement agency should advise the General Manager of the proposed sale at least 24 hours in advance, and preferably 48 hours in advance, so that the General Manager can make the necessary arrangements with the local brand inspector.

F. Fees

The fee charged by LIS in respect of the sale of seized livestock will be the standard brand inspection fee of \$1.00 per head of livestock plus GST.

June 08, 2000

*

CIRCULAR #8/2000

TO: All Civil Enforcement Agencies

SUBJECT: Interpretation Act Amendment - Registered Mail

This is to inform you that the Interpretation Act has been amended by adding after section 22.1 the following:

22.2 A reference in an enactment to double registered mail, single registered mail, registered mail or certified mail includes any form of mail for which the addressee or a person on behalf of the addressee is required to acknowledge receipt of the mail by providing a signature.

Kindly govern yourselves accordingly.

Yours truly,

Dwayne C. Weatherall
Sheriff of Alberta

DCW:daq

Sent by Fax

October 16, 2001

CIRCULAR #5/2001

TO: All Civil Enforcement Agencies

SUBJECT: Canadian Cattle Identification Program

The above program, developed by the cattle industry, came into effect January 1, 2001.

The program's main purpose is to identify cattle that leave their original herd and be able to trace those cattle if a reportable disease is found. This is achieved by requiring cattle producers to purchase ear tags that are unique to each animal.

A bailiff removing cattle may encounter a situation where the cattle are not properly tagged. The Canadian Cattle Identification Agency, the office that looks after this program, has indicated to us that it is not the bailiff's responsibility to apply tags or to force the producer to purchase tags before removing the cattle. However, it would be very helpful to the success of the program if bailiffs would inform the producer at the time of seizure about the requirement to tag the cattle and that there are penalties for failing to do so under this program. You may want to develop a policy within your office on how you want to handle these cases.

Please contact me if you need more information or you may contact the Canadian Cattle Identification Agency directly at:

#230, 6715 - 8th St. NE
Calgary AB T2E 7H7

Phone 1-877-909-2333 (toll free)
Fax 403-275-1668
email ccia@cattle.ca
web www.cattle.ca/ccia

Yours truly,

Dwayne C. Weatherall
Sheriff of Alberta

DCW:daq

Sent by Fax

February 28, 2002

CIRCULAR #2/2002

TO: All Civil Enforcement Agencies

SUBJECT: Canadian Cattle Identification Program

This is a followup to the October 16, 2001 Circular #5/2001.

The Canadian Cattle Identification Agency (CCIA) has obtained a legal opinion from the Canadian Food Inspection Agency, and as a result they now say that civil enforcement agencies and bailiffs removing seized cattle are obligated to ensure and arrange the tagging of cattle before removing them.

There is an issue over whether a bailiff has authority to request tags for cattle he or she proposes to seize if the farmer-operator of the farm of origin of the cattle in question has not properly tagged the cattle or refuses to do so. We are looking at possible changes to the Civil Enforcement Regulation giving bailiffs the necessary authority to request tags as required under the Health of Animals Regulation. It is possible that the authority to request tags as contained in the governing security agreement. If you have reason to believe that this may be the case, you should have your legal counsel review the security agreement to confirm this.

I strongly urge you to share this with your agency staff and bailiffs.

Please contact me if you have any comments or need more information.

Yours truly,

Dwayne C. Weatherall
Sheriff of Alberta

DCW:daq

October 29, 2002

CIRCULAR #3/2002

TO: All Civil Enforcement Agencies

SUBJECT: Using Brand inspectors When Seizing Livestock

This is to remind you and your bailiffs about the importance of using an "expert" in cattle identification, a brand inspector, when seizing livestock.

The RCMP recently investigated an alleged offence under section 324 of the Criminal Code, Theft by Bailee of Things Under Seizure. It was a case where a bailee failed to produce seized cattle when requested by the bailiff. Their investigation revealed that when the bailiff seized the cattle a brand inspector was not used which proved fatal to the prosecution's case.

They indicate they must be able to prove the cattle were on the property at the time the bailee entered into the bailee's undertaking. They say that when a bailiff does not use the services of a brand inspector to properly identify the cattle at the time of seizure they are unable to prove this element of the case against the bailee.

When seizing livestock the agency and its bailiff(s) should follow the Sheriff's June 8, 2000 Circular #7/2000 by obtaining the services of a brand inspector to properly identify the livestock being seized. Not doing so has serious consequences as it makes the criminal prosecution of these cases impossible. As well, it could have negative consequences if proceeding with civil action under section 13(2)(k) of the Civil Enforcement Act.

Please ensure all your bailiffs are made aware of this circular.

If you have any questions or need more information, please contact me.

Thank you

Dwayne C. Weatherall
Sheriff - Civil Enforcement

August 5, 2004

CIRCULAR #1/2004

TO: Civil Enforcement Agencies Civil Enforcement Bailiffs

SUBJECT: Seizure of Firearms

As you are aware, the federal Firearms Act and its regulations set out the licencing requirements for individuals and businesses that possess and handle firearms. The firearms legislation requires anyone in possession of a firearm (individual or business) to hold a firearms licence issued by their Chief Firearms Officer.

Please note however that Civil Enforcement Bailiffs are "peace officers" and "public officers" as defined in the Criminal Code. As such, they are protected from being found guilty of an offence under the Criminal Code or Firearms Act with respect to firearms as long as they are acting in the course of their duties or employment under the Civil Enforcement Act. As such, Civil Enforcement Bailiffs do not need to hold a firearms licence for the purpose of their employment. (If you have your own personal firearms, then you must hold a firearms licence in that context.)

Civil Enforcement Agencies, on the other hand, are not covered by this exemption. If a Civil Enforcement Agency takes possession of firearms after seizure by a Bailiff (ie: for storage) then the Civil Enforcement Agency must hold a firearms business licence. Where a firearms business licence has been issued to a Civil Enforcement Agency, then it could store seized firearms.

After a Civil Enforcement Bailiff seizes a firearm he must either transport it himself, or hire a moving company that holds a firearms business licence. This also means that any storage facility or auction house to which the firearm is transported must also hold a firearms business licence. For information respecting which auction houses and storage facilities have firearm business licences, or Civil Enforcement Agencies that wish to apply for their own firearms business licence, please contact the Chief Firearms Officer for Alberta, at the Canada Firearms Centre's Northwest Regional Office in Edmonton (contact information listed below).

In addition, as Sheriff, I require that any Civil Enforcement Bailiff who seizes firearms must have previously completed the required safety training. In Alberta, this safety training is the "Canadian

Firearms Safety Course" & the "Canadian Restricted Firearms Safety Course" as offered by the Alberta Hunter Education Instructors' Association for a nominal fee. The contact number for this Association is 1-866-852-4342.

For further information regarding firearms licencing, please contact:
Morris Sawchuk, Alberta District Manager
Canada Firearms Centre, Northwest Regional Office
Suite 720, 10909 Jasper Avenue
Edmonton, Alberta T5J 3L9
Phone: 780-495-7964 or 1-800-731-4000 ext. 9018
Fax: 780-495-7970

Note re: Prohibited Weapons and Prohibited Devices: If a Civil Enforcement Bailiff sees a prohibited weapon or prohibited device in the course of a seizure, or seizes such an item, it is imperative that he contact his local police department immediately. While businesses can be licenced to possess such items, generally individuals cannot legally possess them. Information as to what constitutes a prohibited weapon (brass knuckles, push-dagger knife) or prohibited device (over capacity magazines) is available from the Canada Firearms Centre. Their website is www.cfc-ccaf.gc.ca.

Thank you,

Dwayne C. Weatherall Sheriff - Civil Enforcement

Bailiffs Acting as Agents for Creditors



Office of the Sheriff
Civil Enforcement

5th floor North
John E. Brownlee Building
10365 - 97 Street
Edmonton, Alberta
Canada T5J 3W7



Telephone 780/422-2481
Fax 780/422-3011
Sheriff.Civil.Enforcement@gov.ab.ca

June 17, 2002

To: All Civil Enforcement Agencies and Bailiffs

Subject: Bailiffs Acting as Agents for Creditors

I understand that some bailiffs, in their individual capacity or through their own company, are, or may be thinking of, acting as agents for creditors by giving seizure instructions to a civil enforcement agency and arranging with the agency to have the file assigned to that bailiff to handle, for one set fee. This seems similar to acting as a "Broker" on behalf of a client and doing the work for a fixed price.

This is to inform you that the Sheriff does not approve of this sort of activity, and, it may, in fact, be a contravention of the *Civil Enforcement Act* and put the agency's licence and the bailiff's appointment at risk. The privatized civil enforcement system is based on the responsibility of agencies to satisfy certain criteria prescribed under the *Civil Enforcement Act* and by the Sheriff, and it is totally inappropriate for bailiffs to engage in the activities assigned to civil enforcement agencies without having obtained the necessary authority to operate a civil enforcement agency.

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). The Agency's invoicing cannot be directed to the Bailiff or the Bailiff's company, but must be directed to the instructing creditor (client). All billing for bailiff activities to the creditor (client) must be directed through the Civil Enforcement Agency.

Civil Enforcement Agencies must not collaborate in allowing this sort of activity.

Please contact me if you have any questions or need more information.

Yours truly,

Dwayne C. Weatherall
Sheriff of Alberta

DCW:daq

May 07, 2007

*

CIRCULAR #2/2007

TO: All Civil Enforcement Agencies

SUBJECT: Police Involvement in Civil Enforcement Matters

The purpose of this Circular is to clarify the position of the Sheriff - Civil Enforcement regarding the role of the police when present on a civil enforcement matter. It replaces Circular #3/98 issued on June 8,2000.

The role of the police is to preserve the peace. A civil enforcement bailiff and/or agency should only contact the police in the following circumstances:

1. **Where the civil enforcement bailiff has reasonable grounds for believing that an attempt to carry out the bailiff's functions and duties under the Civil Enforcement Act is likely to lead to a breach of the peace. Examples of reasonable grounds would be that credible threats were made during a previous attempt, or the bailiff has information from credible sources that the debtor or other person in possession of the property may be dangerous. The police may choose not to accompany the bailiff to the door, but rather remain off the private property on which the action is taking place, and only enter if it is apparent that a breach of the peace is occurring or likely to occur;**
2. **If there is a court order requiring the police to assist; OR**
3. **In the case of an eviction, where the police may be required to assist by physically removing tenants who refuse to leave the premises after the after the locks have been changed. At that point, the tenants are considered trespassers, and can be charged under the Criminal Code.**

Unless otherwise stated in a Court Order, generally speaking, the assistance of the police should be to ensure that the civil enforcement bailiff is allowed to carry out his or her functions and duties in a peaceful manner without interference or threat of physical confrontation &om the debtor or other persons on site. It is not the role of the police to speak to the debtor or another person on the bailiffs behalf, in particular, when the person is simply "being difficult". Use of the police to provide a forceful presence to make it easier for a bailiff to do his or her job is inappropriate.

Please share this Circular with all of your bailiffs.

Thank you,

Dwayne C. Weatherall
Sheriff - Civil Enforcement

cc: Alberta Bailiff Association

* June 07, 2007

CIRCULAR #3/2007

TO: All Civil Enforcement Agencies

SUBJECT: Bailiffs Providing Services Other than Civil Enforcement Bailiff Functions

Some bailiffs carry on businesses and provide services which are somewhat related to civil enforcement bailiff functions but do not require a civil enforcement bailiff. Examples of these services include ownership and/or operation of a tow truck, providing paralegal services (such as acting as agents for landlords to obtain possession orders, or filling out court forms for creditors), and carrying out voluntary surrenders for finance companies.

Bearing in mind the provisions of the Code of Conduct for Civil Enforcement Bailiffs, the Sheriff - Civil Enforcement's position regarding these activities is as follows:

Tow Truck Owner/Operator

A bailiff is permitted to own and/or operate a tow truck, providing that he or she does not operate the tow truck while carrying out his or her bailiff duties.

Providing Paralegal Services

Subject to the provisions of the Legal Profession Act, bailiffs are permitted to provide such services to landlords or creditors as completing forms or filing documents in legal matters. However, if a bailiff acts as an agent for a landlord or creditor in the hearing of the dispute, he or she may not later, in his or her capacity as bailiff, enforce the order or judgment that results from the hearing. This would include enforcing writs of possession (evictions), or seizing under the writ of enforcement.

In addition, further to my June 17, 2002 letter on the subject of bailiffs acting as agents for creditors, which is found on page 16.15 of the Civil Enforcement Procedure Manual, a bailiff w must not enforce a writ of possession (eviction) unless it has been assigned to the bailiff through a civil enforcement agency, and the bailiff did not act as agent for the landlord in obtaining the order for possession.

Carrying out Voluntary Surrenders

A debtor may voluntarily give up possession of property (normally a vehicle) to a creditor or a creditor's agent, in which case the creditor is not legally required to utilize the services of a civil enforcement agency and bailiff. While a bailiff, not acting in his or her capacity as a civil enforcement bailiff, may receive property pursuant to a voluntary surrender as agent for the creditor, if, at any time prior to completion of the surrender, the debtor changes his mind, meaning that the property must now be seized by a civil enforcement agency, the bailiff who is in attendance as agent for the creditor may only proceed to carry out the seizure on behalf of the civil enforcement agency if he or she has in his or her possession the proper seizure documents.

Thank you,

Dwayne C. Weatherall
Sheriff - Civil Enforcement

DCW:daq



2nd Floor, 108th Street Building
9942 - 108 Street
Edmonton, Alberta, Canada T5K 2J5
Telephone (780) 422 2481 Fax (780) 422 3011
sheriff-civil.enforcement@gov.ab.ca

August 26, 2009

To: All Civil Enforcement Agencies
Subject: Public Access to Civil Enforcement Agency Files

Pursuant to s. 19(2) of the *Civil Enforcement Regulation*, members of the public are permitted access to an Agency's file. The initial Civil Enforcement Service Agreement (the "Agreement") contained the following section:

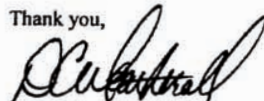
Members of the public shall be permitted access to all portions of the Agency's files which do not relate to confidential matters between the Agency and its client at all normal business hours ... at a cost of \$10.00 per file. In addition, to this charge, the Agency may charge members of the public for photocopying at the rate of no more than \$.50 per page."

In 1999, changes were made to the Agreement, some of which were to remove items that were a duplication of a provision of either the *Civil Enforcement Act* or the *Civil Enforcement Regulation*. The above mentioned section was one of those items, however, the reference to confidential matters, a viewing charge and a photocopy rate were inadvertently removed.

This, then, is to direct that Agencies must provide public access in accordance with s. 19 of the *Civil Enforcement Regulation*, except portions that relate to confidential matters between the Agency and its client. The Agency may charge a fee to inspect the file which must not be higher than that which is allowed under Clerk's Fees in the Alberta Rules of Court (currently set at \$10.00 per file). In addition to this charge, the Agency may charge for photocopying at a rate which must not be higher than that which is allowed under Clerk's Fees in the Alberta Rules of Court (currently set at \$1.00 per page). Further, to clarify, the word "public" includes another civil enforcement agency.

As we are in the process of preparing a new Agreement, the above direction will be reinstated.

Thank you,

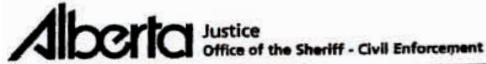


Dwayne C. Weatherall
Sheriff - Civil Enforcement

Attachment

DCW:daq

*



2nd Floor, 108th Street Building
9942 - 108 Street
Edmonton, Alberta, Canada T5K 2J5
Telephone (780) 422 2481 Fax (780) 422 3011
sheriff-civil.enforcement@gov.ab.ca

August 26, 2009

To: All Civil Enforcement Agencies
- and -
Ewald Mahoney, President, Alberta Bailiff Association (ABA)

Subject: Bailiffs Carrying Weapons and Using Handcuffs

This is further to the discussion at the Civil Enforcement Agency meeting held on May 12, 2009 regarding the above.

On page 1.12 of the Civil Enforcement Procedure Manual ("the Manual"), in No. 3 under Peace Officer, it states:

"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."

We have researched the meaning of the term "weapon", and case law which has considered the use of handcuffs generally.

The definition of the word "weapon" is found in s. 2 of the *Criminal Code*. Whether or not an object is a weapon depends upon its design, and its use or intended use. For example, a baseball bat which is being carried with the intention of using it to play baseball is not a weapon, whereas, if it is being carried with the intention of using it for protection, it is a weapon.

With regard to handcuffs, obviously they are not weapons, and it is not illegal to carry them. That being said, I see no reason why a Bailiff needs to carry handcuffs, and it is very important for Bailiffs to be aware and understand that the use of handcuffs by an unauthorized individual on a person who has not committed an offence will amount to an assault, which could lead to criminal charges and/or a civil suit for damages against the person using the handcuffs and his or her employer. To determine whether handcuffs are necessary in a particular job, the magnitude and frequency of the risk of assault and ability of handcuffs to reduce that risk are important considerations. Any Bailiff intending to use handcuffs, and any Civil Enforcement Agency intending to allow its Bailiffs to use handcuffs might want to consider consulting its counsel as to the level of risk it is assuming.

To All Civil Enforcement Agencies
Bailiffs Carrying Weapons and Using Handcuffs

- 2 -

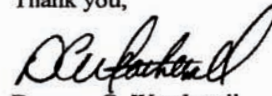
August 26, 2009

Subject to receiving the details of incidents involving bailiffs' safety along with copies of any police reports, and a written proposal from the Agencies and/or the ABA, the Sheriff sees no need to change the statement on Page 1.12 of the Manual at this time.

In light of this, please find attached Directive No. 1/2009.

Please share this information with all of your Bailiffs.

Thank you,



Dwayne C. Weatherall
Sheriff - Civil Enforcement

Attachment

DCW:daq

*

DIRECTIVE NO. 1/2009**TO : All Civil Enforcement Agencies****- and -****Ewald Mahoney, President, Alberta Bailiff Association (ABA)****SUBJECT: Bailiffs Carrying Weapons**

No Civil Enforcement Bailiff may carry a baton while carrying out his or her duties as a Bailiff without the written consent of the Sheriff. Any application for the Sheriffs consent must include a detailed written proposal justifying the request for review and consideration.

Thank you,

Dwayne C. Weatherall
Sheriff - Civil Enforcement

DCW:daq

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